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Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART III—SECTION 1

Notifications issued by the High Courts, the Comptroller and Auditor General, the Union Public Service Commission, the Indian Government Railways, and by Attached and Subordinate Offices of the Government of India

INDIAN AUDIT & ACCOUNTS DEPARTMENT

Leave and Appointments

NOTIFICATIONS

New Delhi, the 17th July 1951

No. 2884-GE/S-9/PF.—Shri V. Subramanian, an Officer of the Indian Audit and Accounts Service, has been granted earned leave for 60 days with effect from the 11th May, 1951.

No. 2886-GE/M-4/PF.—Shri V. R. Madadevan, an Officer of the Indian Audit and Accounts Service, has been granted leave on average pay for one month and four days with effect from the 3rd July, 1951.

No. 2888/GE/R-7/PF.—On return from leave Shri M. S. Ramayyar, an Officer of the Indian Audit and Accounts Service, has been reposted to the Office of the Comptroller and Auditor General of India, New Delhi, as Director of Audit and Accounts, with effect from the 5th July, 1951.

No. 2899-GE/B-7/PF.—The services of Shri K. Batabyal, an Officer of the Indian Audit and Accounts Service, have been placed temporarily at the disposal of the Government of Rajasthan, Jaipur, with effect from the 7th July, 1951.

No. 2904-GE/36-51.—Shri R. V. Samat, a member of the Subordinate Accounts Service in the Office of the Accountant General, Bombay, has been appointed to officiate as an Assistant Accounts Officer in that office with effect from the 1st July, 1951 until further orders.

No. 2905-GE/39-51.—Shri R. D. Makkar, an Assistant Accounts Officer in the office of the Accountant General, Punjab, Simla, has been granted leave on average pay (without medical certificate) for 4 months with effect from the [illegible]h May, 1951.

No. 2906-GE/34-51.—Shri Mangal Dass, a member of the Subordinate Accounts Service of the office of the Accountant General, Central Revenues, New Delhi has been appointed to officiate as an Assistant Accounts Officer in the same office with effect from the 1st July, 1951 until further orders.

No. 2907-GE/34-51.—On recall from leave Shri C. K. Dutt, an Assistant Accounts Officer of the office of the Accountant General, Central Revenues, resumed his duties in that office with effect from the 2nd July, 1951. He was permitted to affix Sunday, the 1st July, 1951, to his leave. The unexpired portion of the leave upto 8th July, 1951 is cancelled.

No. 2929-GE/40-51.—Sri C. V. Subramaniyan, a member of the Subordinate Accounts Service (Local Audit Branch) in the office of the Accountant General, Orissa, has been appointed to officiate as Assistant Examiner of Local Accounts in that office with effect from the 2nd July, 1951, until further orders.

No. 2933-GE/53-51.—Shri K. S. Parachure, an Assistant Accountant General in the Office of the Accountant General, Madhya Bharat, has been granted privilege leave for the period from the 12th February, 1951 to 11th April, 1951.

Shri S. V. Lakkad, an Assistant Accounts Officer in the Office of the Accountant General, Madhya Bharat, has been granted extension of privilege leave for three months from 1st March, 1951 to 31st May, 1951.

Shri V. D. Kakde, an Assistant Accounts Officer in the Office of the Accountant General, Madhya Bharat, has been granted privilege leave from the 9th November, 1950.

P. D. PANDE,
Dy. Compt. & Auditor General.

MINISTRY OF LABOUR

Regional Directorate of Resettlement and Employment

NOTIFICATIONS

Cuttack, the 16th July 1951

No. 2619/DRE/4P(4).—Sri R. N. Mohanty, Sub-Regional Employment Officer, Cuttack was granted earned leave for 15 days with effect from 11th June 1951 to 25th June 1951 (both days inclusive) with permission to prefix Sunday the 10th June, 1951. He resumed his duties on 26th June 1951 forenoon.

H. P. DEB,
Regional Director.

Nagpur, the 16th July 1951

No. RDE/A-67/3303.—Shri S. V. Pandit, Employment Officer, Sub-Regional Employment Exchange, Amravati is granted earned leave for 4 days under the Revised Leave Rules, with effect from the 12th to 15th July, 1951 (both days inclusive).

The 21st July 1951

No. RDE/A-53/3419.—Shri D. V. Gour, Assistant Employment Officer (Tech.), Sub-Regional Employment Exchange, Jabalpur, is granted earned leave for 24 days under the Revised Leave Rules, 1933, with effect from the 2nd to 25th July, 1951 (both days inclusive) with permission to prefix Sunday the 1st July, 1951. On expiry of leave, he is reposted in the same capacity and to the same station.

A. B. VAIDYA,
Regional Director.

Bombay, the 19th July 1951

No. DE/48(12)/2661 of 1951.—Under Rule 12 of the Revised Leave Rules, 1933, earned leave for a period of five days was granted to Shri R. D. Jadhav, Assistant Employment Officer, Sub-Regional Employment Exchange, Sholapur with effect from 1st May 1951 to 5th

May 1951 (both days inclusive) with permission to suffix Sunday the 6th May 1951. It was intended that Shri R. D. Jadhav should resume the same post on expiry of his leave.

M. G. MONANI,
for *Regional Director*
Resettlement and Employment.

Office of the Chief Labour Commissioner

New Delhi, the 20th July 1951

No. CLC-14(172)/Adm.—Shri A. S. Gupta, Labour Inspector (Central), Kodarma, has been deputed for training in the Short Term Social Work Course for the June 1951 session of the Calcutta University with effect from the afternoon of 3rd June 1951.

L. C. JAIN, *I.C.S.*,
Chief Labour Commissioner.

LABOUR APPELLATE TRIBUNAL OF INDIA

NOTIFICATION

Calcutta, the 10th July 1951

No. LA.6(2)/2810.—The following decisions of the Tribunal are published for general information.

1. Appeal No. Cal-29 of 1951.
2. Appeal No. Cal-30 of 1951.
3. Appeal No. Cal-68 of 1951.
4. Appeal Nos. Cal-56, 57, of 1951 and 137 of 1950.
5. Appeal No. Cal-56 of 1950.
6. Appeal No. 92 of 1950.
7. Appeal No. 48 of 1950.

J. N. MAJUMDAR,
Chairman,
Labour Appellate Tribunal of India.

Appeal No. Cal-29 of 1951

Messrs. R.B. S. Jain Rubber Mills, Howrah—*Appellants*

Versus

R. B. S. Jain Rubber Mills Workers' Union—*Respondents*

In the matter of an appeal against the award of Sri A. Das Gupta, Judge, Industrial Tribunal, Calcutta, made on the 24th November, 1950 and published in the Calcutta Gazette dated December 21, 1950 in respect of an industrial dispute between the above parties.

4th July, 1951.

Present :

Mr. J. N. Majumdar—*Chairman*
Mr. R. C. Mitter, Kt.—*Member*

Appearances :

For the appellants—Mr. S. C. Sen, Advocate with Mr. N. Das Gupta, Pleader.

For the respondents—Mr. D. L. Sen Gupta, Advocate.

State—West Bengal.

Industry—Rubber.

DECISION

The Company had on different dates dismissed six of their workmen on charges of misconduct. The dispute concerning their dismissal raised by the Union was referred by two orders of the West Bengal Government being Nos. 2931 Lab. dated the 2nd July and 3668 Lab. dated the 6th July, 1950, for adjudication by a Tribunal of which Sri A. Das Gupta was the sole member. The first reference was in respect of the discharge of Gomti Kahar, Narsingh Singh and Sheopujan Singh and the second was in respect of the discharge of Babulal Mourya, Deo Narain Mistry and Chandrabali Sukla.——These two references were heard together and one award was given. By the award all those six persons were reinstated with certain consequential reliefs. The Company filed the aforesaid appeal. At the time of the hearing, the Company pressed its appeal against Gomti Kahar, Sheopujan Singh and Nursingh Singh only.

2. The respondents advocate took two preliminary objections, namely :—

(1) that the appeal was barred by time and

(2) that it was incompetent as no substantial question of law was involved in that part of the award which dealt with the cases of the aforesaid persons.

3. The award was published on the 21st December so limitation ran from that date. The memorandum of appeal was presented on the 20th January, 1951. Consequently, it would be out of time or in time according as in reckoning the period of 30 days provided for in Section 10(1) of the Industrial Disputes (Appellate Tribunal) Act, 1950 (hereafter called the Act), the date of the publication of the award is included or excluded. On this question the law is clear and it is that that date is to be excluded. The Act being a special Act, Section 12(1) of the Indian Limitation Act would apply as it has not been expressly excluded by the Act. This is the effect of Section 29(2)(a) of the Limitation Act and is also the effect of section 9 of the General Clauses Act, X of 1897. We accordingly hold the appeal to be within time. The appeal is also competent as some questions of law are involved. Those questions, however, have been decided in the case of Buckingham and Carnatic Company Vrs. the Madras Labour Union (Appeal No. 94 and 142 of 1950, decided on the 26th June, 1951).

4. Gomti Kahar was dismissed on the ground that he had been guilty of insubordination, insolence and gross mis-conduct which consisted in not obeying the lawful orders of his superior, Sri S. Ganguly. A charge sheet was framed on the 4th April, 1950 and handed over to him. He submitted an explanation denying the charges levelled against him and also stated that the false charge was the result of his refusal to accede to the request of the General Works Manager to sever his connection with the Labour Union. The finding of the Tribunal is that no date for enquiry into the charges was fixed to his knowledge and no enquiry was held. Believing his evidence, the Tribunal also found that he was asked both by Sri Ganguly and by Works Manager, Pandit G. P. Misra, to sever his connection with the Union and on his refusal, they threatened him. The Tribunal gave reasons in arriving at those conclusions and we cannot say that its findings are wrong in law on the ground that there was no evidence to support them. On those findings the Tribunal came to the conclusion that the Management had violated fundamental principles of natural justice by not giving him opportunity to defend himself and that the act of dismissal amounted to unfair labour practice. We have already held in Buckingham and Carnatic Company's case that the Managements decision can be reviewed by a Tribunal on those grounds and reinstatement ordered.

5. The charge against Sheopujan Singh, who was a member of the Executive committee of the Labour Union, was gross neglect of duty specified under three heads. The finding of the Tribunal is that the charge sheet was not handed over to him, that no date was fixed for the enquiry into those charges and that the Management had no intention of making the enquiry in his presence. The Tribunal also found to be true his statement that Pandit G. P. Misra was bent upon destroying the Labour Union by issuing orders for termination of the services of Union leaders. These findings cannot be said to be wrong in law, as they are based on evidence. Hence the order for his reinstatement must also be upheld for the reasons we gave in our judgment in the Buckingham & Carnatic Company's case.

6. The charge against Nursing Singh, who is the President of the Union, was that he was guilty of insubordination and indiscipline as he had deliberately violated the Company's rules relating to attendance and leave. The finding is that he was not given opportunity to meet the charge and that he was discriminated against in the matter of punishment because he was the President of the Union and had been taking an active part against Pandit G. P. Misra on behalf of the workers. As these findings are based on evidence, no question of law arises. He was ordered to be reinstated on the finding that his dismissal amounted to unfair labour practice. The order of the Tribunal is, therefore, correct judged by the principles laid down by us in Buckingham and Carnatic Company's case. The result is that the appeal is dismissed but without costs.

J. N. MAJUMDAR, *Chairman.* R. C. MITTER, *Member.*

Appeal No. Cal-30/51

Seerampore Belting Mazdoor Union—*Appellants.*

Versus

Seerampore Belting Co. Limited—*Respondents.*

In the matter of an appeal against the award of Sri S. N. Modak, Chairman, Industrial Tribunal, West Bengal, dated the 7th December, 1950 in respect of an industrial dispute between the above parties.

Dated the 3rd July, 1951.

Present :

Mr. J. N. Majumdar—*Chairman*

Mr. R. C. Mitter, Kt.—*Member*

arances :

For the Appellants :

For the Respondents :

State : West Bengal.

Industry : Belting.

DECISION

On the 4th November, 1949, the West Bengal Government referred an industrial dispute between the workmen of the Seerampore Belting Company Limited and the Company for adjudication by Sri S. N. Modak, Chairman of the Industrial Tribunal, West Bengal. During the pendency of that adjudication, the Company dismissed two workmen, Promotha Nath Dass and Dhananjoy Chatterjee, on the 21st August and 12th October, 1950 respectively for misconduct. Prior to his dismissal, the latter had been suspended on the 22nd September 1950. The award made on that reference was published on the 8th November, 1950. On the 27th September, 1950, a complaint was made on behalf of those two workmen under Section 33A of the Industrial Disputes Act before Sri Modak who, by his order dated 7th December, 1950, dismissed it. This appeal has been filed by the Union against the said order.

2. Sri Modak found that both those workmen had been dismissed in contravention of Section 33 of the Act. He, however, went into the merits of the cases and found that both of them had been guilty of major misconduct charged against them which merited dismissal. As there was some irregularity in the dismissal of Promotha Nath Dass, he allowed him 3 months' emoluments as compensation, and although he found that there was no irregularity in regard to the dismissal of Dhananjoy, still he granted him 15 days' emoluments as compensation. He refused to reinstate them. As there is no appeal by the Company, we are precluded from considering the correctness of the order for compensation, especially in favour of the latter.

3. The findings of Sri Modak that permission under Section 33 was necessary and that no permission had, in fact, been obtained from the Tribunal have not been questioned before us by the parties. The point that has been raised by the appellant is that after coming to those findings Sri Modak had no power to consider the merits of the dismissal but ought to have directed reinstatement straight-away. A subsidiary point relating to the propriety of his finding as to the dismissal of Promotha has also been raised in the appeal.

4. The main question raised before us depends upon the construction of Section 33A of the Industrial Disputes Act, 1947, on which two views have been expressed by State Tribunals, and we have to decide which of them is the correct view. We must, however, make it clear that our observations and conclusions must be taken to have reference to the construction of that Section only and not to that of Section 23 of the Industrial Disputes (Appellate Tribunal) Act, on the construction of which we reserve our opinion.

5. The view expressed in Simpson & Co. Ltd. Vrs. its employees (1951, 1 L.L.J. 108) which has been followed in Ahmedabad Municipal Transport Service Vrs, their Workmen (1951, 1 L.L.J. 410) is that Section 33A limits the enquiry into the complaint made thereunder to the question as to whether the conditions of service of the complaining workman had been altered to his prejudice during the pendency of an adjudication proceeding to which he was a party or whether he had been, in fact, discharged or dismissed during the pendency of that proceeding, and that the Tribunal has no power to embark upon an enquiry into the question as to whether the order of the Management complained against was on the merits justified. If the result of the enquiry thus limited in scope be favourable to the complainant he must be reinstated as a matter of course or his status quo ante restored, as the case may be. This proceeds upon the basis that Section 33 of the Act imposes a disability on the employer during the pendency of an adjudication proceeding between him and the employee concerned by making it obligatory on him to seek previous permission of the Tribunal in respect of acts specified therein and that Section 33A merely lays down the *procedure* of the enquiry relating to the alleged construction of Section 33. The other view, which is the view adopted in the award under appeal, has been taken in Bengal Electric Lamp Works Ltd. Vrs. their employees (1951, 1 L.L.J. 40) and Seerampore Belting Works Ltd. Vrs. Becharam Kundu (1951, 1 L.L.J. 277). This view proceeds on the footing that Section 33A does not enumerate "any automatic rule of procedure regarding the restoration of the previous state of things." It permits "a full-fledged adjudication" regarding the subject matter of the complaint. In both these last mentioned decisions, Sri Modak was a party. The award under appeal before us was given by him but for that reason we cannot ignore his earlier decisions.

6. Section 33A cannot be dissociated from Section 33. To that extent we agree. The object with which Section 33 was enacted may be, as has been said in Simpson's case, to ensure fair and satisfactory enquiry in the pending adjudication by forging a safeguard against victimisation of the employees concerned in the pending adjudication proceeding or against unfair labour practice on the part of the employer at that stage, by requiring him to obtain permission from the Tribunal in respect of acts specified in that Section, but it would be travelling to the region of speculation by saying that the intention of the legislature was to preserve *status quo ante*, for if that was the intention, the disability of the employer in respect of those acts would have been made absolute. An examination of the history of the legislation would throw light on the question which we have to decide.

7. Section 33A was introduced in 1950 by Act XLVIII of 1950, but Section 33 stood in the same form as now except that the last sentence thereof has been differently worded; but that difference is not material for the question which we have to consider. The position before the amendment of 1950 seems to have been that if Section 33 of the Act was contravened, two remedies were available to the workmen, namely, (1) a prosecution under Section 31, and (2) a reference under Section 10 of the Act. These two remedies in law were not exclusive of each other but both of them were dependant upon the sanction of the Government. In other words, those remedies were not available to the aggrieved workmen as a matter of right in the sense that they could not themselves start the prosecution without the sanction of the Government nor could they have their grievances regarding change of condition of service, discharge or dismissal redressed by adjudication by a Tribunal without Government intervention. Section 33A of the Act have conferred a right on the aggrieved workmen to have, at their instance the dispute regarding the change of conditions of service or their discharge or punishment whether by dismissal or otherwise during the pendency of the proceedings mentioned under Section 33 adjudicated upon by approaching the Tribunal direct without the intervention of the Government. The remedy regarding the prosecution under Section 31 has been left untouched. Thus by the introduction of Section 33A two objects have been attained, namely, (1) avoidance of multiplicity of proceedings and (2) a more speedy determination of the dispute. The scope of the enquiry under Section 33A would be the same as it would have been before the amendment of 1950 if a reference by the appropriate Government had been made and this, in our opinion is indicated by the phrase "as if it were a dispute referred to" occurring in that Section. The language of Section 33A presupposed that Section 33 had been contravened by the employer. It is that fact which gives the aggrieved employee the right to set the Tribunal in motion. If the fact of contravention of Section 33 is challenged by the employer that would raise a *preliminary* issue, and if that preliminary issue is decided in favour of the employee a further enquiry into the dispute can be proceeded with. It follows that the scope of this further enquiry is to be different and distinct from the enquiry necessary for the determination of the preliminary issue, and so must necessarily be in respect of the merit of the challenged act of the employer. We therefore see no good reason for the adoption of the view that Section 33A only defines the procedure to be followed by the Tribunal in enquiring into the complaint and that enquiry would be only to see if Section 33 had been contravened. We accordingly overrule the appellants contention.

The supplementary point raised relates to the case of Dhananjoy Chatterjee. The charge of misconduct levelled against him was that he had assaulted a Supervisor named Bibhuti Bhusan Mukherjee. The alleged assault was outside the factory premises and outside working hours but it obviously was in connection with an alleged altercation over the work in the factory. In respect of

the same assault Bibhuti had filed a complaint against Dhananjoy before a Magistrate. The criminal case was pending when Sri Modak gave his award. We fail to see how the findings of the Magistrate acquitting Dhananjoy would have been admissible in this case which is between the Company and Dhananjoy even if the Magistrate's order had been given while the matter was pending before Sri Modak. Besides, as has been rightly pointed out by Sri Modak that the scope of the proceedings before him and the Magistrate were entirely different and had to be judged on different standards of evidence. We accordingly overrule this contention also.

The result is that the appeal is dismissed. No costs.

J. N. MAJUMDAR, *Chairman.* R. C. MITTER, *Member.*

Appeal No. Cal-68 of 1951

The Jute Workers' Federation for workmen of Clive Jute Mills, Calcutta—*Appellants*

Versus

Clive Jute Mills, 24 Parganas—*Respondents*

In the matter of an appeal against the award of Shri S. N. Modak, Chairman, Industrial Tribunal, Calcutta, made on 15th January, 1951 in respect of an industrial dispute between the Jute Workers Federation for workmen of Clive Jute Mills, Calcutta vs. Clive Jute Mills, 24 Parganas. (Published in Calcutta Gazette dated the 8th February, 1951).

4th July, 1951.

Present :

Mr. J. N. Majumdar—*Chairman*

Mr. R. C. Mitter, Kt.—*Member*

Appearances :

For the Appellants—Mr. D. L. Sen Gupta, Advocate.

For the Respondents—Mr. B. Choudhuri, Counsel.

State : West Bengal.

Industry : Jute

DECISION

This is an appeal against the decision of the Industrial Tribunal, West Bengal consisting of Shri S. N. Modak, I.C.S. (Retd.) as Chairman and Sri P. R. Mukherjee and Sri M. C. Banerjee, as Members (hereafter called the Tribunal), holding that the complaint made by the General Secretary, Jute Workers' Federation on behalf of the workers of Clive Jute Mills Ltd. (hereafter called the Company) under Section 33A of the Industrial Disputes Act is not maintainable.

2. That complaint was made on the 23rd December, 1950 on the allegation that on the 18th December, 1950, a trouble arose in the Mills over the number of workers in the Batching and Sewing Departments, in course of which the Manager was alleged to have been assaulted. The workmen's case is that the Manager had assaulted a worker on the ground of negligence in the performance of his work : that the Secretary of the Union was also assaulted and had to be removed to hospital and that in the afternoon of the same date a lockout was declared which involved 4,000 workmen. The relief claimed was that the lockout should be immediately lifted and all wages for the period of lockout be paid.

3. On behalf of the Company, it was alleged that the workmen went on an illegal strike from 1 P.M. on 18th December, 1950 and in consequence it declared a lockout. On the 29th December, 1950 it notified that the Mills would be reopened and the lockout would be lifted on condition that an assurance of peaceful running of the mills was given by the workers and that 8 specified workmen who had been responsible for riotous and disorderly behaviour inside the Mills would remain suspended pending further enquiry and necessary action. It also raised a preliminary point that the complaint under Section 33 A was not maintainable inasmuch as the allegations made on behalf of the workmen did not disclose any contravention of the provisions of Section 33 of the Industrial Disputes Act.

4. As we have already said the Tribunal upheld the preliminary objection so it did not consider the merits of the case on facts. On behalf of the appellant it was contended before the Tribunal as also before us that the declaration of lockout by itself amounted to a contravention of both the clauses of Section 33 of the Industrial Disputes Act, which after the amendment reads as follows :—

"During the pendency of any proceedings before a Tribunal, no employers shall

(a) alter to the prejudice of workmen concerned in such a dispute, the condition of service applicable to them immediately before the commencement of such proceedings.

(b) discharge or punish, whether by dismissal otherwise any workmen concerned in dispute,

save with the express permission in writing of th bunal."

There is no dispute that at the time the lockou declared proceedings were, in fact, pending before the bunal between the parties and no permission had be. obtained by the Company.

5. For the purpose of considering the question as to whether section 33 had been contravened by an employer the question whether a lockout is illegal or not is not, in our opinion, relevant. If it was illegal the penalty is provided for in Section 26 of the Act. The question is whether the lockout (1) had, in fact, altered the conditi of service of the workmen to their prejudice or (2) had the effect of discharge or (3) amounted to punishment of the workmen. It has not the effect of discharge, for a lockout does not automatically terminate the services of the workmen. It does not also amount to punishment, for punishment presupposes an offence or misconduct. Lockout is generally adopted as a security measure and may in certain cases be used as a weapon corresponding to what the employees have in the shape of strike. We therefore, hold in agreement with the Tribunal that clause (b) of Section 33 had not been contravened by the Company by declaring the lockout. The next point for consideration is whether a lockout contravenes clause (a) of that Section.

6. We. have already said that the services of employees locked out are not automatically terminated by a lockout. The question is whether any of the conditions of their service are altered thereby to their prejudice thereby. The contention of the Union is that they are, because those employees do not in fact get their pay during the period of lockout with the possibility of losing it. In our opinion, the conditions of their service would be altered by a lockout if they lose the *right* to receive their pay during the period of the lockout in all circumstances. But the question whether they would be entitled to get pay during that period cannot be postulated with certainty for that would depend upon a variety of considerations. In our opinion, to bring the case within clause (a) of Section 33, the questioned act of the employer must *directly and in fact,* alter the conditions of service to the prejudice of the workmen or workmen concerned that is to say the moment the lockout was declared. The possibility that they may or may not get their pay means that the lockout may or may not alter the conditions of their service to their prejudice. Thus clause (a) would not be attracted by the fact of a lockout. We accordingly hold that the decision of the Tribunal on the preliminary objection is right.

7. The result is that this appeal is dismissed but without costs.

J. N. MAJUMDAR, *Chairman.* R. C. MITTER, *Member.*

Appeal No. Cal-56/1951

Lahore Electric Supply Co. *Ltd.—Appellant*

Versus

Lahore Electric Supply Co. Employees' Union—*Respondents*

Appeal No. Cal-57/1951

Lahore Electric Supply Employees' Union—*Appellants*

Versus

Lahore Electric Supply Co. Ltd.—*Respondents*

Appeal No. Cal-137/50

Lahore Electric Supply Co. Ltd—*Appellants*

Versus

Lahore Electric Supply Co. Employees' Union—*Respondents*

In the matter of an appeal against the awards of Shri Avatar Narain Gujral, Chairman, Industrial Tribunal, Punjab (I) made on 15th September, 1950,

28th December, 1950 in respect of Industrial disputes between the Management of The Lahore Electric Supply Co. Ltd., Rohtak and their Employees.

Dated the 3rd July, 1951.

Present :

Mr. J. N. Majumdar—*Chairman*

Mr. R. C. Mitter, Kt.—*Member*

rances :

Appeal No. Cal-56/51

the Appellants.—Mr. H. N. Sanyal with Mr. B. e, Counsel.

For the Respondents.—Mr. V. B. Karnick with Mr. J. N. Mitter, General Secy., Hind Mazdoor Sabha.

Appeal No. Cal-57/51

For the Appellants.—Mr. V. B. Karnick with Mr. J. M. Mitter, General Secy., Hind Mazdoor Sabha.

For the Respondents.—Mr. H. N. Sanyal with Mr. B. Bhose, Counsel.

Appeal No. Cal-137/50

For the Appellants.—Mr. H. N. Sanyal with Mr. B. Bhose, Counsel.

For the Respondents.—Mr. V. B. Karnick, with Mr. J. N. Mitter, General Secy., Hind Mazdoor Sabha.

State.—Punjab.

Industry.—Electricity.

DECISION

1. The Lahore Electric Supply Company Limited, hereafter called the Company, was incorporated under the Indian Companies Act in 1912. Its original share capital was Rupees Five Lacs. It was increased to Rupees Twenty-five lacs in the year 1928 and by the issue of free bonus shares for Rs. 25,00 000/- in 1938, its share capital ultimately came upto Rs 50 00,000/-. Its plant and undertaking was at Lahore and it supplied electric energy for all purposes within the Municipal limits of that City and other adjoining places situate in West Punjab. Its licence under the Electricity Act, 1910 was issued by the then Punjab Government.

2. On the 23rd November, 1940 the then Punjab Government acting under section 7 of the Electricity Act gave notice to the Company expressing its intention to purchase the undertaking, in accordance with the terms and conditions of the licence. On the 4th November, 1941 its undertaking was requisitioned under rule 75A of the Defence of India Act Rules but the Management of the concern was left in the hands of the Company. On the basis of an agreement dated the 2nd June, 1945 supplemented by a further agreement dated the 2nd September, 1946 the Punjab Government purchased the undertaking and Rupees one crore was paid towards the price on the 5th September, 1946. There was a stipulation for the payment of further sums of money after the valuation had been completed and some adjustments made. Ownership passed to that Government on the 5th September 1946, on which date it took over possession. The head office of the Company was then at Lahore. It was shifted to Rohtak in East Punjab (India) in the early part of 1948. The Union of the employees of the concern was formed before 1946, that is to say before the partition of India and was registered in Punjab under the Trade Unions Act.

3. In September 1946 a dispute arose between the employees and the Company relating to various matters including claims to bonus for the financial year, 1st April, 1945 to 31st March 1946, and for part of the following year during which the Company worked, i.e., from 1st April to 5th September, 1946 and a claim to a share of the price that had been paid by Government to the Company on the basis of the aforesaid sale and a further claim to a portion of the reserves. Those disputes were referred to by the then Punjab Government under the Defence of India Act rules for adjudication by Mr. H. S. Butler But the adjudication was held up by reason of a civil suit instituted by the Company. On the 15th August, 1947, India was partitioned and Lahore and its adjoining places fell within Pakistan. By an order dated the 6th May, 1949 the Governor of West Punjab (Pakistan) cancelled the order of reference for adjudication by Mr. Butler. By that time nearly all the men who were employees of the Company up to the time of the said sale had migrated to the Indian Dominion owing to the continuous disturbed conditions in West Pakistan.

4. By an order made on 27/29th March, 1950 under section 10 of the Industrial Disputes Act, 1947, the East Punjab Government (India) referred the above mentioned three matters for adjudication by the Industrial Tribunal of East Punjab of which Shri Avatar Narain Gujral was the sole member. At the hearing six preliminary issues were framed by him. They are as follows :—

(1) Is the Lahore Electric Supply Company Employees' Union registered in India? If not, what is its effect?

(2) Is the reference under dispute bad and against law and the Punjab (India) Government competent to refer the dispute to the Tribunal for adjudication as the undertaking to which it relates was situate at Pakistan which is a foreign State.

(3) Does the relationship of employer and employee exist between the parties as the undertaking had been taken over by the Punjab Government and hence the reference on that account is void.

(4) Does not the dispute fall under the definition of Industrial Disputes?

(5) Has the Tribunal no jurisdiction to try and adjudicate on the points in dispute, because :—

(i) it is beyond the scope and range of the Industrial Disputes Act, 1947.

(ii) it was referred to Mr. J. H. Butler by the Government of the United Punjab and should be presumed to be *lis pendens.*

(iii) the reference was cancelled by the appropriate Government and no new reference can be made by the Governor of Punjab (India), and

(iv) it relates to a period prior to the enforcement of the Industrial Disputes Act, 1947, in India.

5. By an interim award made on the 15th September, 1950 Sri Gujral decided all those issues against the Company. Against this award, appeal No. 137 of 1950 has been preferred by the Company. The only point pressed in this appeal relates to the competency of the reference and the jurisdiction of the Tribunal to try.

6. On the merits of the claim he made his award on the 28th December, 1950. He allowed 3½ months' salary as bonus for the year ending 31st March, 1946 to all employees who had worked throughout that year and proportionate amounts to employees who had worked for a lesser period according to a certain formula. For the part of the next year he awarded one month's salary as bonus to all employees who had worked during that period on the same terms on which he had awarded bonus for 1945-46. In respect of bonus for both the periods he imposed a limitation that employees whose salary was Rs. 200/- or more were to get at a rate equivalent to an employee whose monthly salary was Rs. 200/-. He overruled the claim of the workmen to participate in the price paid by the Government to the Company but allowed them 10 per cent. of the reserves, to be distributed among them on a certain formula. He directed all amounts due under his award to be paid by the Company within two months from the date of the receipt of application from the employees after the award had become enforceable. Appeals No. 56 and 57 of 1951 have been filed by the Company, and the employees respectively against this award. The common points in these two appeals relate to the amount of bonus, the Company contending that the award is excessive and the employees otherwise. In its appeal the Company has also challenged the award of a share of the reserves to the employees. Although in their grounds of appeal the employees reiterated their claim to a share of the price paid by the Government for the undertaking that claim was not pressed before us during argument.

7. The question of jurisdiction of the Tribunal depends upon the question of the competency of the East Punjab (India) Government to make the reference. The contention of the Company was and is that the *locus* of the undertaking is the sole determining factor and accordingly as the *locus* is in West Punjab, the Pakistan Government was the only authority which could according to its own laws put the matter in motion, whereas the contention of the workmen is that the appropriate Government having jurisdiction over the head office at the time of the reference is the only authority that could make the reference. The Tribunal has accepted the contention of the workmen laying down a general rule that in every case the place of the head office is the determining factor. On the facts of this case it is not necessary to express our views on the correctness of that broad proposition. All we desire to say for the moment is that a view expressed so broadly may lead to complications even when the undertaking and the head office of the Company or the residence of employer are in the Indian Dominion but in different Provinces or States. For the solution of the question, the provisions

of the Industrial Disputes Act, 1947, furnish no clear answer. The definition of "appropriate Government" taken along with Section 7 and 10 of the Act is not helpful, for it only answers the question of making a reference by Central Government vis-a-vis a provincial or State Government, but no answer is given where the competition is between two Provinces or States. The question has to be considered carefully if and when occasion arises. So we reserve our opinion on this general question. The view we take is that the competency of a particular reference must be judged with reference to the time when the reference is made. If at that time the Government making the reference had the power to make it, the reference would be a good one. The time when the dispute arose is not material for this purpose. In the light of this observation the facts of this case have to be examined.

8. At the date of the questioned reference, the Company had no connection with the undertaking which had been sold by it in September 1946. So the importance of the *locus* or situation of the undertaking disappears in this case. At the date of the reference the head office of the Company was situate in the East Punjab (India) and the dispute was between the Company and the past employees residing in India at the time of the reference in question in East Punjab, and may be at some other places but within the Indian Union and their claims are the subject of what in Private Internation Law would be called "personal actions" or analogous thereto and so the doctrine of "effectiveness" would lend support in favour of the competency of the reference by the appropriate authority in India by which alone jurisdiction could be and was conferred on the Tribunal. We, therefore, hold that the reference was competent, and the Tribunal had jurisdition to adjudicate upon the disputes referred to it.

9. The question of bonus and its amount must in this case be judged in accordance with the rule formulated in the Mill Owners' Association, Bombay vs. the Rashtriya Mill Mazdoor Sangh, Bombay (1950, L.L.J. Page 1247). A claim for bonus would arise only if there is a surplus after meeting from the gross profits certain prior charges and reasonable claims of capital, and the amount of the surplus left thereafter would be the determinant of the amount or rate of bonus. The approved prior charges mentioned in that judgment are (a) depreciation, (b) taxes, (c) reserves for rehabilitation (d) reasonable returns on paid up capitals and (e) a fair return on reserves employed as working capital. In that case there was no compulsory gratuity scheme on retirement so money that may have to be put in a special reserve fund to meet the liability for payment of gratuity did not arise. That, in our opinion, has to be regarded as a prior charge if the gratuity scheme is compulsory. In the case before us, items No. (c) and (e) are absent. The Balance Sheet of the Company, has. therefore, to be examined accordingly. The fact that Company has maintained its accounts or has been maintaining them in a particular manner nor the allocations made by it would stand in the way of our analysing the Balance Sheet and making allocations in a proper manner, for the purpose of determining the question of bonus.

10. An examination of the Balance Sheet for the year 1945/46 in the light of the above observations would show that there would be a surplus which would enable payment of four months' salary as bonus for that year subject to the limitations made in the award under appeal. We set out below the figures :—

		lacs
Gross Profits		16·00
Depreciation		3·04
		19·96
Income Tax		4·68
		8·28
Gratuity Reserve		1·50
		6·78
Dividend @ 6 %		3·00
		3·78
Bonus @ 4 months salary	about	2·26
Balance still left to be carried over	about	1·52

11. An examination of the Balance Sheet of the next year on these lines would show that if bonus at the rate of one and half months salary be paid subject to the limitations imposed by the Tribunal, there would still be a surplus of about .30 lacs (Thirty thousand) to be carried over. That sum is no doubt small but as the business of the Company had ceased from the 5th September, 1946, there would not be the necessity of transfering any appreciable sum to the general reserves or to the next years opening balance.

12. We accordingly increase the bonus for the year 1945/46 from 3½ months salary as awarded by the Tribunal, to four months salary and the bonus for the next year from one months salary to one and half months salary. To this extent only the award relating to Bonus is modified and the rest affirmed.

13. The award directed 10 per cent of the reserves ed at Rs. 1,14,46,140/- odd to be distributed amongs sons who were *in the employ of the Company* at *an during the calendar year* 1946, according to c proportions. This sum of 1.14 odd crores is made the following figures :—

(1) General reserve ...	Rs. 24,15,280-4-10
(2) Depreciation Reserve	Rs. 62,00,522-3-2
(3) Difference on relisation of assets and investment	Rs. 28,30,388-1-5
	Rs. 1,14,46,140-9-5

14. It is conceded by the parties that this reserve was built up gradually year to year since the formation of the Company in the year 1912, and upto September, 1946 when the business of the Company ceased. The amount undoubtedly came out of the gross profits of the Company and that the Labour force no doubt contributed to the prosperity of the Company which enabled the creation of the reserve fund but that labour force consisted of a succession of workmen many of whom had ceased to be in the employment of the Company by the year 1946. Before giving reasons in support of our decision it is necessary to summarise the reasons given by the Tribunal and to examine the soundness thereof. The reasons given are :—

(1) that the employees have the right to have due share of the profits earned and when they had been deprived of their due share in the past by the transference of a large portion of the profits to reserves they have a right to a share reserves, when by force of events the money held in reserves again reverts to the shape of profits.

(2) that reserves have the character of trust properties and when the purpose for which reserves were created, the trust, so to say, comes to an end and as in that event trust porperty reverts to the author of the trust or his representatives, the reserves would on the winding up of the business of the Company revert to both the employees and employers who are to be deemed to be joint authors of the trust fund.

(3) that as the Company was under a liability to pay bonus to the employees out of the profits and as the reserves are to be deemed as profits when the business of the Company is wound up, section 211 of the Indian Companies Act would not stand in the way of their claim to a portion of the reserves, as that section allows distribution of the assets on a winding up among the members of the Company only after the liabilities are met.

To reinforce its decision the Tribunal referred to the award made by the Conciliation Officer, Uttar Pradesh in the Cawnpore Electric Supply Corporation Ltd. Vs. their employees (1950, 2 Lab. L.J. 379), but at the same time did not examine the award made by Mr. Justice Divatia in the Bombay Electric Supply & Tramways Company Ltd. Vs. its employees (Bombay Labour Gazette, December 1947, p. 474) which had taken a different view and to which reference had been made by the Company in the course of its argument.

15. All these propositions laid down by the Tribunal assume that labour has a *direct* right to a share of profits which in our opinion, is a large assumption. The employees are not certainly partners of the shareholders and profit sharing scheme as such is in a nebulous state in India resting on the tentative report of a committee not yet implemented by Government. The money which production brings belongs to the Company and neither the shareholders nor the employees automatically acquire any right to it or any portion thereof. The shareholders acquire a right only when a dividend is declared at a meeting and then only to the amount which represents the dividend. Where there is a surplus after meeting prior charges and reasonable return to capital, the employees have only a claim for bonus, which is only a temporary

expedient to fill up the gap between their emoluments and living wages and where no such gap exists, profit sharing bonus is only for stimulating a collective spirit among workmen favourable to greater output and for giving them an interest in the success of the undertaking (Dobb on Wages p. 82). When the emoluments are below the living standard wages, bonus need not be in the form of a profit sharing basis. It is one thing to say that the claim for bonus arises when there is profit in the year under claim and another to say that the employees have a right to the undistributed sums of money which repre- profits. The right comes into being only when bonus lared as a result of adjudication or otherwise. What it, therefore, cannot be reopened. The first reason therefore, does not seem to us to be substantial. are besides two more infirmities. There is no evid- that in the past large and unjustifiable amounts been set apart for the reserves and even if that was the workmen who may have been said to have been unfairly treated were those workmen who had worked in the relevant years when the alleged malpractice occurred, and may not be, and certainly most of them were not, in employ in 1946.

16. In alleged past default or unfairness on the part of the Company cannot be raked up to support the claim. The second reason seems to us to be so patently absurd that we do not propose to deal with it at length. It passes our comprehension how a reserve fund of a Company can be linked to a trust fund. A trust implies a confidence and an obligation annexed to ownership in favour of a person or an obligation to spend the fund or its income for the promotion of a *definite* object designated by creater of the Trust. It is impossible to project the conception of trust to reserve fund created to meet contingencies of a business venture. The third reason is equally falacious. As we have already said a claim to bonus ripens into a liability on the part of the Company only when the amount of bonus is declared and fixed either by adjudication or otherwise. The right in the employees to a definite sum of money out of the profits accrues only in that event. Prior to that it has the character of a mere demand and so in a winding up proceeding the employees cannot have any claim on the assets of the Company. It would be an impossible position for them to ask the liquidator to determine the question as to whether their demand for bonus was admissible or not or to determine its amounts. It is quite plain that employees can have no legal basis for a claim to the reserves on the winding up of a Company and also in the case where the undertaking is permanently closed. Consequently there would be no liability of the Company to its employees in respect of *undeclared* bonus or in respect of any part of the reserves within the meaning of section 211 of the Indian Companies Act. The further question is whether they can claim any share in it on broad grounds of equity and justice. The formulation of grounds based on equity and justice is a general and broad way is no doubt, attractive but when properly analysed loses all its charm. It is said that as labour and capital had contributed to the building of the fund, labour should in justice be allowed to participate in that fund when the purpose for which the fund was created disappears. The use of the word "labour" in this connection ideally furnishes the attractiveness of the proposition but when realities are examined the allurement vanishes. The question is who constituted the labour force which had contributed to the building of the reserve fund in the course of years. They were a succession of workmen who toiled and took rest death or retirement or who had the misfortune of being discharged. What justice is there where the claim is in essence a claim to share the fruits of others labour by persons who happened to be in the employ of the Company in the particular year in which its business was wound up. Those employees can in no sense be reguarded as representatives of the older generation of workmen. In our opinion, the cogent reasons which Mr. Justice Divatia gave in the Bombay Electric Supply & Tramways Co. Ltd. Vs. its employees (Bombay Labour Gazette December 1947, page 474) in rejecting such a claim cannot be refuted. There he also considered the award given in the Cawnpore Electric Supply Company's case and pointed out the shaky grounds on which it was rested.

The result is that we set aside the award allowing the claim of the employees to the reserves and modify it in respect of bonus but only to the extent indicated by us. The rest of the award is confirmed.

The result is that appeal No. 137 of 1950 is dismissed and appeals No. 56 and 57 are partly allowed. Parties to bear their respective costs in all the appeals.

J. N. MAJUMDAR, *Chairman,* R. C. MITTER, *Member.*

Appeal No. Cal-56 of 1950

Narikeldanga Jute Mills Workers Union—*Appellant*

Versus

Calcutta Jute Manufacturing Co. Ltd.—*Respondents*

In the matter of appeal against the award of Shri S. N. Modak, Judge, Industrial Tribunal, Calcutta, made on 4th November, 1950 in respect of an industrial dispute between the Narkeldanga Jute Mill Workers Union, Calcutta, Vs. Calcutta Jute Mfg. Co. Ltd., Calcutta.

Dated, the 3rd July, 1951.

Present :

Mr. J. N. Majumdar—*Chairman*

Mr. R. C. Mitter, Kt.—*Member*

Appearances :

For the Appellants.—Mr. D. L. Sen Gupta, Advocate.

For the Respondents.—Mr. S. C. Sen, Advocate.

State.—West Bengal.

Industry.—Jute.

DECISION

1. By Order No. 2933 Lab. dated the 3rd June, 1950, the West Bengal Government referred three issues to Shri S. N. Modak, Chairman, of the West Bengal Industrial Tribunal, for adjudication. Sri Modak gave his award on the 4th November, 1950, which was published in the Gazette on the 30th November, 1950. The appeal which is by the Union is confined to two of those issues, namely, bonus for the year 1948, and dearness allowance.

2. The Union's case is that bonus was a condition of service and one month's basic wages was payable as such irrespective of considerations of profit and loss. The Tribunal held, and we think rightly, that the evidence does not support the claim so made. It held that though bonus paid in past years were not linked with profits its payment depended on the factum of profits. It then went into the question as to whether in the year the Company had, in fact, made profits and found that it had made none. For the purpose of ascertaining whether there has been profit or loss, it took the account year from 1st July, 1948, to the 30th June, 1949.

3. The balance sheet of the Company shows that there was sufficient profits during the period from 1st January, 1948 to 30th June, 1948, that the profits during the period from 1st July 1948 to 31st December, 1948, was Rs. 1,82,000/- but there was loss of Rs. 4,67,000/- during the period from 1st January 1948 to 30th June, 1949; so that if the account year for bonus claimed be from 1st January to 31st December 1948, the claim for bonus for 1949 depending on profits would be admissible and the surplus would be sufficient to pay at the rate of one month's basic wages, but if the account year be from 1st July, 1948 to the 30th June of the following year, the claim for bonus for 1949 would not be sustainable. On this state of the accounts the Union's contention before the Tribunal was, and before us is, that the account year should be from 1st January to 31st December 1948. The Tribunal rejected this contention and we think rightly. It is the common case that all along in the past the practice was to pay bonus just before the *pujas*, that is to say, in September-October, and the evidence is that the year of account was taken to end on the 30th June immediately preceding the time of payment. We, therefore, hold that the claim for bonus for the year 1949 has been rightly disallowed.

4. The claim for increase of dearness allowance is only on behalf of clerks who were before daily rated but weekly paid ones but who in consequence of the award given on the 31st August 1948, and published on the 20th September following (hereafter called the 1948 award) by the major Jute Textile Industry Tribunal were made monthly rated employees. This claim depends upon the terms of that award so far as they relate to the facts of this case.

5. By that award the minimum basic wages of clerks employed in the Jute Textile Industry in Bengal was fixed at Rs. 55/- per month and all clerks were directed to be made monthly rated employees. The clerks concerned in this appeal were just before that award, as we have already said, daily rated but weekly paid employees and were getting Rs. 6-15-3 per week, roughtly Rs. 30/- in cash per month. They were, however, getting free food at the Company's mess at that time. This practice of giving them free food as a part of the terms of their employment existed from before 1939, that is to say, before the rise in prices of food stuff due to the war which was the cause of the introduction of the system of payment of dearness allowance.

6. In the 1948-award dearness allowance for all categories of workmen was fixed at Rs. 32-8-0 a month, with a proviso that dearness allowance was not to be reduced to Rs. 32-8-0 in cases where it was being paid at the time at a higher figure, and for this purpose, it was stated in that award that the value of what existing dearness allowance was, was to be computed by taking into account not only cash payments made under the denomination of dearness allowance, but also the value of food concessions and other amenity allowances or any other benefit given to the employees.

7. Just before that award the clerks concerned in this appeal were getting Rs. 4/8/- per week under the name of amenity allowance that is to say, at the rate of Rs. 19/8/- per month. They were also getting free food. Thus their total emoluments before 1948 award consisted of (a) about Rs. 30/- per month in cash as wages, (b) Rs. 19/8/- as amenity allowance, and (c) free food which was assessed subsequently by the Company at Rs. 40/- per month for Bengalee clerks and Rs. 50/- per month for Marwari clerks on the price level of 1948 and 1949. Shortly after the 1948 award, the Company discontinued the payment of Rs. 19/8/- as amenity allowance treating it as a part of the wages and discontinued the practice of supplying free food and in its stead paid the aforesaid sums of Rs. 40/- and Rs. 50/- per month. The employees claim that the said sum of Rs. 19/8/- should have been treated as dearness allowance for month, according to the directions under the said award and as the company was treating the values of free food at Rs. 40/- and Rs. 50/- as dearness allowance, the employees were entitled to get Rs. 59/8/- (Rs. 40/- plus Rs. 19/8/-) and Rs. 69/8/- (Rs. 50/- plus Rs. 19/8/-) and dearness allowance to Bengalee and Marwari clerks respectively on the terms of that award. Although the operation of that award had expired before this reference was made, both parties took up the position before the Tribunal and before us that the matter of dearness allowance is to be governed by the terms of the 1948-award.

8. As free food was being given from before 1939, a part of the cash allowance of Rs. 40/- and Rs. 50/- respectively which was being subsequently paid in lieu of free food, must be attributed to basic wages, and that part would represent the cost of free food in the year 1939, (the base year), and the exceed amount due to the rise of cost of food stuffs after 1939 must be attributed to dearness allowance. This is also the conclusion of the Tribunal and which has not been challenged before us by either party. The problem, therefore, is the ascertainment of the cost of food as supplied in 1939. The Tribunal has remarked that there was no material available for determining that question. It observed that in such circumstances "the question may be legitimately arise as to whether the error treating the amenity allowance of Rs. 19/8/- as basic wages was not sufficiently neutralised by the error in treating the basic wages portion of the value of free food as dearness allowance. It seems to me that the question is incapable of being answered in the present circumstances." Accordingly, he maintained the dearness allowance at Rs. 40/- and Rs. 50/- for Bengalee and Marwari clerks respectively. This conclusion would have been right if we could have agreed with the view that no materials were available for ascertaining the value of free food in 1939. In our opinion, this can be ascertained from the cost of living index figure as it was at the time of the 1948-award.

9. It would not be an assumption to say that the standard of food supplied in 1939 was maintained thereafter when the cost of food rose. In fact, the commutation in cash of that concession was made by the Company on that basis. The 1948-award shows that at the time when it was given the cost of living index stood at 350 according to one estimate and at 325 according to another. Both those estimates had been made by appropriate authorities. In fixing the amount of total emoluments of an employee that Tribunal proceeded on the figure 325 and so, we think this figure should be taken for determining the question before us. Proceeding on that basis the position stands thus.

10. Taking the cost of food at Rs. 40/- at the time of the 1948-award, its cost in 1939, the base year, would be roughly Rs. 12/4/- ($\frac{40\times100}{325}$)per month and the corresponding figure in the case where it was Rs. 50/- would be roughly Rs. 15/4/- ($\frac{50\times100}{325}$). The two amounts of Rs. 12/4/- and Rs. 15/4/- respectively being treated as part of basic wages the difference viz. Rs. 27/12/- (Rs. 40/- minus Rs. 12/4/-) and Rs. 34/12/- (Rs. 50/- minus Rs. 15/4/-) must be a part of dearness allowance. Therefore, the total dearness allowance that was being paid before 1948-award must be taken to be Rs. 47/4/- (Rs. 27/12/- plus Rs. 19/8/-) and Rs. 54/4/- (Rs. 34/12- plus Rs. 19/8/-) respectively. Rounding of the figures, we hold that the Company is liable to pay them at the rates of Rs. 47/- and Rs. 54/- respectively and we direct the Company to pay at that rate from the month of December, 1950 onwards. The result is that the appeal is allowed to this extent. The rest of the award is confirmed. Parties to pay their respective costs.

J. N. MAJUMDAR, *Chairman.* R. C. MITTER, *Member.*

Appeal No. 92 of 1950

Victoria Glass Works of Ghusuri, Howrah—*Appell*

Versus

Howrah District Glass Factory Workers Union—*Respond*

In the matter of an appeal against the award by A. Das Gupta, District Judge, made on the . August, 1950 and published in the Calcutt Gazette on the 14th September, 1950, in respect of an industrial dispute between the above parties.

Present :

Mr. J. N. Majumdar—*Chairman*

Mr. R. C. Mitter—*Member*

Appearances :

For the appellants.—Sri S. C. Sen, Advocate with Sri N. M. Das Gupta, Pleader.

For the respondents.—Sri P. K. Sanyal, Advocate with Sri Tarak Banerjee, Secy. of the Union.

State.—West Bengal.

Industry.—Glass.

DECISION

1. By Order No. 32 Lab. dated the 5th January, 1950 the West Bengal Government referred a member of disputes between the Victoria Glass Works and their workmen represented by the Howrah District Glass Factory Workers' Union for adjudication by a Tribunal of which Sri A. Das Gupta was the sole Member. The award was given on the 9th of August, 1950 and was published on the 14th of September, 1950. This appeal has been filed by the employer against that award and in the memorandum of appeal, only four grounds have been taken, namely,

(1) that the reference was bad and illegal,

(2) that the award in respect of consolidated wages is wrong,

(3) that the gratuity scheme introduced for the uncovered period of the Provident Fund Scheme is unfair, and that

(4) more festival holidays have been awarded than what was fit and proper.

At the time of the argument, the learned Advocate appearing for the Company abandoned all the grounds taken in the Memorandum of Appeal except one that related to gratuity.

2. Point No. 4 of the reference related to retiring benefit. In dealing with this issue, Sri Das Gupta, directed a contributory provident fund to be started immediately with contribution on either side equivalent to 6¼ per cent of the monthly wages of permanent workers on the lines of the model rules framed by the Government for industrial workers as far as possible. No objection was taken before us to this part of the award, but Sri Das Gupta also directed that for the period anterior to the institution of a provident fund, the workers shall get as gratuity at the rate of ½ months wages for every completed year of service subject to a maximum of 15 months and that the gratuity so calculated is to be paid along with the provident fund money when, according to its rules, it become payable etc. It is this part of the award that was attacked by the appellant's advocate in the course of his argument. We are, however, relieved from giving our decision on this point as the parties ultimately arrived at a settlement namely, that gratuity is to be paid for the uncovered period of the provident fund according to the rule laid down in the award under appeal, but the period of service for this rule for a particular employee shall not be counted from a date anterior to the 14th of November, 1940 The result is that subject to the aforesaid modification which is by consent of parties, the award under appeal is confirmed. Parties to pay their respective costs.

J. N. MAJUMDAR, *Chairman.* R. C. MITTER, *Member.*

Appeal No. Cal-48/50

Messrs. Ivan Jones Ltd., Employees' Union—*Appellants*

Versus

Messrs. Ivan Jones Limited—*Respondents*

In the matter of an appeal against the award of S. C. Chakraverty, Chairman, Industrial Tribunal, Calcutta, dated the 4th October, 1950 and published in the Calcutta Gazette November 2, 1950 in respect of an Industrial dispute against the above parties.

Dated the 4th July, 1951

Present :

Mr. J. N. Majumdar—*Chairman*

R. C. Mitter, Kt.,—*Member*

Appearances :

For the Appellants—Mr. Susil Chandra Dutta, Advocate.

For the Respondents—Mr. S. K. Sen, Advocate.

State.—West Bengal.

Industry.—

DECISION

1. In October, 1946, the Company started a Provident Fund but as no trustees of the fund had been appointed, and no rules had been framed in respect thereof, disputes arose between the Company and its employees in 1948 relating to the Provident Fund. The dispute also covered a claim relating to gratuity in addition to Provident Fund. A reference was made by the West Bengal Government to Sri P. R. Mukherjee as Tribunal for adjudicating upon these disputes who made his award on the 5th of June, 1948. He directed the Company to appoint trustees of the fund and to frame rules to govern it. He also upheld the claim of the Union to gratuity, and settled a scheme. In respect of the gratuity, the directions made in his award were that it was to be meant for the clerks only and to be in addition to the Provident Fund. He directed payment of gratuity when the clerk concerned left his service, retired or died, at the rate of one month's pay (exclusive of allowance) for every year of service upto a maximum of 15 month's pay calculated on the average monthly pay during the last three years of his service and that the minimum qualification was to be service for ten years. There was, however, a proviso that no gratuity would be payable to a clerk who was dismissed for dishonesty or misconduct.

2. After this award, the Company did not frame any rules or execute a Trust deed regarding the Provident Fund. So disputes again arose between parties in respect thereof as also in respect of the claim of the workers for creating a separate fund for payment of gratuity.

3. By Order No. 2802 dated the 29th May, 1950, the West Bengal Government referred those disputes for adjudication by a Tribunal of which Sri S. C. Chakraverty was the sole member.

4. By his award dated the 4th November, 1950, Sri S. C. Chakraverty settled the rules of the Provident Fund which he annexed to the award. The subject matter of the appeal before us is Rule 19, clause (b), sub-rule (a)(2) of the Rules so approved by Sri Chakraverty Rule 19 runs as follows :—

(1) Except as provided in Sub-rule 2(a), no deductions shall be made from the amount standing to the credit of a subscriber when final payment is made to him or his nominees under rule 18 ;

(2)(a) If any subscriber resigns or leaves his employment at his own request otherwise than by reason of superannuation on medical grounds, the Committee may, by a majority of two-third members, direct that deductions according to scales specified below shall be made from the amount paid into the subscriber's account by the employer under rule 6(a) (including the interest accrued to the employer's contribution) :—

(i) Subscribers of less than 3 years' standing ... 100%

(ii) Subscribers of 3 but less than 6 years' standing 50%

(iii) Subscribers of 6 but less than 9 years' standing 25%

(iv) Subscribers of 9 or more years Standing ... Nil

(b) If any subschiber is dismissed for serious misconduct the Comittee shall, at the request of the employer, direct that a deduction equal to the contribution made by the employer in to the subscriber's account under rule 6(a) (including interest accrued thereon) shall be made.

5. Rule 6(a) read with rule 8 provided for the employers and employees' contribution to the provident fund. The rate was fixed at one tenth of the monthly salary, Rule 8 provided for an equal contribution by the employer. The first point for consideration is whether the appeal directed against the aforesaid sub-rule 2(a) of rule 19, is competent. As admittedly no question of law is involved on this part of the case, it would be competent only if the matter falls within Section 7, sub-section (i), clause (b) sub-clause (iii) of the Industrial Disputes (Appellate Tribunal) Act, 1950. That sub-clause provides that an appeal shall lie from the award or decision of an Industrial Tribunal "in respect of any contribution paid or payable *by the employer* to any pension fund or provident fund. No doubt the appeal would have been competent if it was directed against rule 6(a) or rule 8 of the Provident Fund Rules as sanctioned by Sri Chakraverty. But on these two rules, there is no dispute between the parties. Rule 18 and 19 of the Provident Fund Rules relate to the amount that would be lying to the credit of *the employees* and which *would become payable to him.* We do not think that the point raised in the appeal before us is covered by sub-clause (iii) of Section 7, sub-section (1), clause (b) of the aforesaid Act, for that sub-rule relates to the contribution paid or payable *by the employer to the Provident Fund.* We accordingly hold that the appeal against this part of the award is not competent.

6. The demand of the employees for the creation of a separate Gratuity Fund was turned down by Sri Chakraverty. We doubt the compentency of the appeal directed against this part of the award, for it is difficult to bring it within Section 7(1) (b) (v) of the Industrial Disputes (Appellate Tribunal) Act. Be that as it may, we do not see any merits. Sri Chakraverty did not accede to the prayer of the Union on the ground that there would be a technical legal difficulty in creating such a fund inasmuch as the amount is not an ascertained amount. We do not think that there is any technical legal difficulty, but there is the difficulty that the amount cannot be definitely ascertained. It is no doubt true that out of the eight clerks who are now employed in the concern, seven have completed ten years service and are in the maximum grade pay for the last three years. But there is the uncertain element as to whether or not any one of them would eventually get gratuity according to the scheme framed in the award of the 5th June, 1948. In that award, there is an express condition that no gratuity would be payable to a clerk if he is dismissed for dishonesty or misconduct. But apart from that reason, we do not think that a gratuity fund should be sanctioned. No doubt it is open to the Management to set apart year by year sums of money to a reserve, for future payment of gratuity but for the purposes of compelling an employer to do so, very convincing reasons would be required. So far as we are aware, no award has been made compelling an employer to create such a fund. If such a fund is directed by the award to be created, it would mean tying up of sums of money which could otherwise be utilised at the discretion of the Management for the purpose of trading activities. The only benefit to the employees entitled to gratuity would be that they would get a certain amount of protection at the winding up of the Company, for under Section 230, sub-section 1(e) of the Indian Companies Act, they would get priority over the general creditors of the Company. There is, however, no evidence on the record which would lead to any reasonable inference that the Company would go into liquidation, in the near future. It is an established Company doing business for the last sixty years and is in a prosperous condition. Its business is in line of supplying Mill stores. It has agencies from foreign manufacturers. Ordinary shares numbering to 1,20,000 have been subscribed and it has been paying decent dividend to the shareholders. In these circumstances, we are not satisfied that employees entitled to gratuity required such protection as is contemplated by Section 230, sub-section 1(e) of the Companies Act. The result is that this appeal is dismissed. Each party to bear its own costs.

J. N. MAJUMDAR, *Chairman.* R. C. MITTER, *Member.*

Calcutta, the 10th July 1951

No. LA.6(2)/2812.—The following decision of the Tribunal in Appeals Nos. 94, 138 and 142 of 1950 is published for general information.

J. N. MAJUMDAR,
Chairman,
Labour Appellate Tribunal of India.

Appeal No. 94/50

The Buckingham & Carnatic Company Limited by its Managing Agents Messrs. Binny & Company (Madras) Limited
Address : No.7 Armenian Street, George Town, Madras. — *Appellant.*

Versus

The workers of the Buckingham & Carnatic Company Limited represented by the Madras Labour Union.
Address : 136 Straham's Road, Perambur Barrakes, Madras,
And
The Madras Textile Workers' Union,
Address : No. 27 Kutti Thambiran St. Perambur Barracks, Madras. — *Respondents.*

Appeal No. 138/50

The Buckingham & Carnatic Company Limited by its Managing Agents Messrs. Binny & Company (Madras) Limited,
Address : No. 7 Amenian Street, Geroge Town, Madras. — *Appellant.*

Versus

The workers of the Buckingham & Carnatic Company Limited represented by the Madras Labour Union.
Address : 136 Straham's Road, Perambur Barracks, Madras,
And
The Madras Textile Workers' Union,
Address : No. 27 Kutti Thambiran St. Perambur Barracks, Madras. — *Respondents.*

Appeal No. 142/50

The Workers, employed by the Buckingham & Carnatic Co. Ltd. represented by the Madras Lab. Union, 136 Strahans Rd. P. B. Madras 12. — *Appellant.*

Versus

The Buckingham & Carnatic Co. Ltd. represented by its Managing Agents Messrs. Binny & Co. (Madras) Ltd. No. 7 Armenian St. G. T. Madras. — *Respondents.*

In the matter of an appeal against the award of Sri T. D. Ramaiya, District & Sessions Judge, (Retired) and Industrial Tribunal, Madras and published in the Fort St. George Gazette, Madras dated the 3rd October, 1950, in respect of an industrial dispute between the workers and the Management of Messrs. Buckingham & Carnatic Mills Co. Ltd. Madras.

Calcutta, the 27th June 1951

Present :

Mr. J. N. Majumdar, Chairman.

R. C. Mitter, Kt. Member.

Mr. G. P. Mathur, Member.

Appearances.

Appeal Nos. 94 and 138 of 1950

For the Appellant—Mr. O. T. G. Nambiar, Counsel Instructed by Messrs. King & Patridge, Solicitors, Madras.

And Mr. B. P. Khaithan, Attorney-at-Law.

For the Respondents—Mr. Antony Pillai, President, Madras Labour Union.

Appeal No. 142 of 1950

For the Appellant—Mr. Antony Pillai, President, Madras Labour Union.

For the Respondents—Mr. O. T. G. Nambiar, Counsel Instructed by Messrs. King & Patridge, Solicitors, Madras.

And Mr. B. P. Khaithan, Attorney-at-Law.

State.—Madras.

Industry.—Textile (Cotton).

DECISION

These three appeals are directed against an award made by the Second Industrial Tribunal (hereinafter called the Tribunal), Madras, which was published on the 12th October, 1950. They are taken up together by consent of parties. The award was made on two references made by the State Government by Order Nos. G.O.S. MS-3691-Development, dated 11th July, 1949 and G.O.S. MS-4837-Development dated 28th September, 1949 for adjudication of the disputes between the Buckingham & Carnatic Co. Ltd. (hereinafter referred to as the Company) and its workers represented by the Madras Labour Union and the Madras Textile Workers' Union. The points in dispute in the first reference were 19 in number, and out of which one related to the question of reinstatement of 32 employees. In the second reference the points involved were 12 in number which included a question for reinstatement of further 65 persons. By consent of parties common evidence was recorded in both the references and one award was given. The award was to remain in operation for one year. Appeal No. 94 which is by the Company is directed *inter alia* against the order reinstatement of 24 persons and the order relating holidays claimable under Section 49B of the Factories 1934. The services of these persons were terminated the Company in the following manner, namely

(1) six under Standing Order No. 5 for absence out leave for 8 consecutive working days or more ;

(2) 13 were discharged under Standing Order No. 22 which entitled the Company to dismiss any operative without giving any reason on 15 days' notice, and

(3) the remaining 5 were dismissed for misconduct.

2. On the question of bonus for 1948, which was one of the points referred to in the first reference, the Company has preferred an appeal, which is No. 138 of 1950, and that is also one of the subject matters of Appeal No. 142 of 1950 preferred by the Madras Labour Union on behalf of the employees. The last mentioned appeal also relates to the other points on which the Tribunals' decision was against the employees. One of them relates to the refusal of the Tribunal to reinstate eight operatives.

3. We would first take up the question relating to the reinstatement of these 32 workmen. It is conceded both by Mr. Nambiar for the Company and by Mr. Antony Pillai for the Madras Labour Union that appeal against the order of reinstatement would not be competent unless a substantial question of law was involved. This is what we have also held in Amrita Bazar Patrika Ltd., Allahabad *Vs.* B. M. Pal (1951, 1 L.L.J. 373). Except with regard to two workmen it is not the Union's case that their services had been terminated in circumstances which would amount to victimisation or unfair labour practice. With regard to the aforesaid two persons, the Tribunal found against the Union. These findings have not been challenged before us.

4. The points of law raised before us by the Company on this part of the appeal are as follows :—

(1) That the question about the legality or propriety of the termination of service must be considered on the basis of the Standing Orders as they stood at the time when their services were terminated ;

(2) That if the services had been terminated in accordance with the Standing Orders, an Industrial Tribunal has no power to sit in judgment over the Management's decision except (a) to enquire into the bonafides of the action of the Management (b) to see if the procedure as laid down in the Standing Orders have been followed and (c) to see if the rules of natural justice had been observed.

(3) that even when the Tribunal considers the termination service to be illegal or improper, it cannot order reinstatement unless it amounted to unfair labour practice or victimisation ; In all other cases of illegal or improper termination of service payment of compensation should be the rule.

5. It cannot be said that substantial questions of law are involved where the point is simply whether the discretion exercised by a Tribunal in a matter of reinstatement is to be interferred with or not in the appeal. In this case, however, the points urged before us were raised before the Tribunal as questions of law and have been considered by it as such. So, in our opinion, substantial questions of law are involved in the appeal.

6. On the question of reinstatement, as the Tribunals have expressed different views from time to time, we propose to deal with the subject on broad lines in order that some measure of uniformity may be attained. It is not necessary for us to recount the struggle between labour and capital in the different parts of the world. It will suffice to mention that the outcome of that long and continued struggle was that industrial workers acquired two fundamental rights, namely, (1) the right to organise themselves to protect their interest without molestation or victimisation by the employers and (2) the right to resort to strike as a means for enforcing their

demands. Accordingly, the common law right of an employer to discharge or dismiss an employee or what is popularly known in some countries as "the right to him and fire" has been subjected to statutory restrictions. In India the right to form unions of workmen, the procedure for its registration and the right to compel the employers to recognise those unions are covered by Statutes. The general right to resort to strike has also been recognized by Statutes and provisions have been made to regulate that right by defining the circumstances under which a [illegible] is to be regarded as illegal and in the case of public [illegible] concerns that right has been further regulated by [illegible] for previous notice of strike for a stated period [illegible] even and also by giving the Government power [illegible] it its continuance, with proper safeguards in the [illegible] of labour by providing for an almost obligatory [illegible]ce by Government for the purpose of compulsory [illegible]tion of the dispute raised in the strike notice. [illegible]re are three other accepted fundamental principles, namely, (1) that an industrial worker must be placed in such a position that the security of his service may not depend upon the caprice or arbitrary will of the employer, (2) that industrial peace should be maintained and (3) that industry should be efficiently managed. These principles underlie the Industrial Employment (Standing Order) Act, 1940, the Industrial Disputes Act, 1947 and other local statutues of a like nature. The former Act makes it obligatory on employers of large establishments employing 100 workers or more to have Standing Orders following a model pattern certified by the appropriate authority. They are to be regarded as conditions of service by which both employers and employees are to be governed. When the services of an Industrial worker is terminated an industrial dispute can be raised under the Industrial Disputes Act, for it would be a question of "employment and non-employment" and it would be competent for the Industrial Tribunal to determine whether the termination of service is justified. In the case of Western India Automobile Association Vs. Industrial Tribunal, Bombay (11 F.C.R. p.321 at 336 s.c. 53 CWN 59 F.C.) the Federal Court has held that in appropriate case the Tribunal has the power to order reinstatement. The question about the nature and scope of the enquiry that would be embarked upon in considering whether the employer was justified in terminating the service of the employee or the conditions under which reinstatement could be ordered were not, however, considered by the Federal Court, which concluded its judgment by observing that the Industrial Tribunal can be trusted to do its duties and it cannot be said that it will give reinstatement relief unless it thinks it is necessary to do. All the above matters must be kept in view in considering the question now before us. This question had, however, came up for consideration before different Tribunals from time to time and as already mentioned, their views have not been uniform.

7. In some cases it has been held that as Industrial Tribunal cannot at all sit in appeal over the decision of the Management—(Dhudaku Shamji *Vs.* New Pratap Spinning & Weaving & Mfg. Co. Ltd., 1944, Bomb. Lab. Gazette 326, Jamaluddin Ghissu *Vs.* Asava Mills Ltd. 1944, Bom. Lab. Gazette, 45, Abdul Rahiman Yacub *Vrs.* Sholapur Weaving and Spinning Mills Ltd. 1944, Bomb. Lab. Gazette 707); in same a qualification was introduced namely, that if opportunity to the workmen concerned had been given to meet the charges levelled against him by the Management and the procedure as provided for in the Standing Orders was followed the Tribunal would not sit in appeal over the Management's decision (Abdul Samat Rajab Ali *Vs.* the Bradbury Mills Ltd. 1944, Bom. Lab. Gazette 50. Ganu Parbat Borade *Vs.* Bombay Dyeing and Mrg. Co. Ltd. 1944, Bombay Lab. Gazette 757) and in some others the element of bonafides was introduced in addition and it was held that an industrial tribunal would not sit in appeal over the decision of the Management, unless it was shown that there was want of bonafides on its part, or the Standing Orders, authorising discharge of dismissal were used as a cloak for unfair labour practice, (Rastriya Mills Mazdoor Sangh, Bombay *Vs.* Meyer's Mills, 1951, 1 Lab. L.J. 283; New Pratap Weaving & Spinning Mills Ltd., *Vs.* Its employees 1949 Bombay Lab. Gazette 940). We consider the first series of awards to be wrongly decided and in the second and third series of awards, though the principles so far as they go have been rightly formulated, the limitations indicated therein cannot be considered to be exhaustive but illustrative only. The law was stated in a somewhat different form in Arvind Mills Ltd., *Vs.* Jesingbhai (1950 I.C.R. 140). Though the rule that a Tribunal does not ordinarily sit in appeal over the decision of the Management was reiterated in that case, it was held that the materials on which the Management proceeded in dismissing or discharging the employee could be looked into by the Tribunal to see if the act of the Management was "manifestly unjust or unfair". We do not think that the last mentioned observation,—if it was intended to limit the Tribunals power to cases of "manifest injustice and unfairness" only, which is the rule on which Civil Courts act when dealing with the decision made by a "domestic tribunal" (such as of a club council) ought to be adopted in its strictness when dealing with industrial disputes concerning employment and non-employment.

8. In the case before us, the standing order provides for three types of cases in which the services of an employee can be terminated, namely, (1) automatic termination for absence without leave for a stated period, or for overstaying leave without satisfactory explanation; (2) discharge on notice or in lieu thereof payment of wages for a certain period without assigning any reason and (3) dismissal for misconduct. In cases where the ground alleged by the employer is misconduct, rules of procedure to be followed before the order of dismissal is passed are also laid down in the Standing Orders. In our opinion, these three types have to be considered separately. In all these types, the requirement of bonafides is essential. The termination of service in colourable exercise of the power or as a result of victimisation or unfair labour practice or of caprice, should be prevented, as otherwise some of the fundamental rights and principles which we have noticed above would be violated. Arbitrary conduct or unnecessary harshness on the part of the employer judged by the normal standard of a reasonable man may be cogent evidence of victimisation or unfair labour practice.

9. In the first type of cases our view is that an Industrial Tribunal would be at liberty to examine the explanation offered by the employee for his absence and other circumstances also for the purposes of seeing whether the employer acted with an honest purpose. In the second type of cases, even when the Standing Order authorises discharge on notice without assignment or reason, the scope of the enquiry would be similar. If the termination of service in these two types of cases be held to be justified no further question would arise, though in exceptional cases of the 2nd type there may be scope for giving compensation. On examining the cases with this approach if the Tribunal finds the termination to be unjustified the question of relief—reinstatement and/or payment of compensation will arise and in dealing with that question the considerations arising in case of wrongful dismissal would be applicable.

10. In the third type of cases, namely, where an employee is dismissed for alleged misconduct the question which arise may be generally formulated as follows :—

(i) To what extent and in what circumstances is the Tribunal entitled to interfere with the finding of the Management that the charge against the employee has been proved;

(ii) If the charge is held to have been proved to what extent should a Tribunal interfere with the punishment which the Management has inflicted.

(iii) If the Tribunal holds that the charge has not been proved what relief should a Tribunal award.

11. The power of the Management to direct its internal administration, which includes the enforcement of discipline of the personnel cannot be denied but with the emergence of modern concepts of social justice that an employee should be protected against vindictive or capricious action on the part of the Management which may affect the security of his service, this power has to be subjected to certain restrictions, but at the same time undue interference by a Tribunal with administration and Management should not be encouraged. It would thus be open to the Tribunal to examine the findings of the Management on the charge of misconduct to assure itself that there is evidence to support the finding and that the decision of the Management is a possible view on the evidence before it. In such a case the Tribunal should refrain from substituting its own judgment for the judgment of the Management, as in such matters the Tribunal does not act like a Court of Appeal but rather as a supervisory body exercising what would ordinarily be regarded as powers of revision for correction of basic errors which go to the root of the matter and of perverse findings. Consequently, any vindictive or capricious action on the part of the Management or the fact that the trouble had been provoked by the action of the Management, may be relevant factors for consideration in determining whether interference with the decision of the Management is called for. The result therefore, is that the decision of the Management in relation to the charges against the employee will not prevail—if

(a) there is want of bonafides, or

(b) it is a case of victimisation or unfair labour practice or violation of the principles of natural justice, or

(c) there is a basic error on facts or

(d) there has been a perverse finding on the materials.

12. If after scrutiny on the aforesaid lines it is found by the Tribunal that it ought not to interfere with the findings of the Management that the charge has been proved, the Tribunal must next consider whether it should interfere with the punishment. The Management, with the knowledge and experience of the problems which confront it in the day to day work of the concern, ordinarily ought to have the right to decide what the appropriate punishment should be, but its decision is liable to be revised if the Tribunal is of opinion that the punishment is so unjust that a remedy is called for in the interest of justice. It must, however, be remembered that it is essential that the matter should not be viewed altogether subjectively from the point of view only of the employer or employee but also objectively in the interest of industry for bringing about a harmony in the relationship between the two.

13. We are leaving out cases of retrenchment on grounds of rationalisation or economy where different considerations will prevail both with regard to the scope of enquiry and relief and shall now deal with the question of relief where the termination of service, in any of the aforesaid three types of cases is held by the Tribunal to be wrongful or unjustified. This question would involve the determination of the circumstances under which reinstatement or payment of compensation instead of reinstatement is to be ordered.

14. The normal rule in such cases should be reinstatement, but in so ordering the Tribunal is expected to be inspired by a sense of fair play towards the employee on one hand and considerations of discipline in the concern on the other. The past record of the employee, the nature of his alleged present lapse, and the grounds on which the order of the Management is set aside are also relevant factors for consideration. It is not possible to lay down rules which could be regarded as exhaustive on the subject. Each case would have to be considered on its merits, but within the general framework of the principle indicated above. We must, however, clearly say that we are not prepared to accept the contention of Mr. Nambiar or the views expressed in some awards that reinstatement relief is to be limited to cases of victimisation and unfair labour practice and that in all other cases of illegal or improper termination of service compensation should be the general rule. In coming to our conclusions on the subject, we have not overlooked the observations of Diwatia J. in the India United Mills Staff Union *Vrs.* The India United Mills Limited (1946-47 Bom. Lab. Gazette p. 335).

15. We will now consider the individual cases in the light of the views expressed above.

16. The Tribunal ordered reinstatement of six workmen who had been dealt with by the Management under Standing Order No. 5 the relevant portion of which runs as follows :—

> "*Absence without leave.*—Any operative who shall absent himself for eight consecutive working days without leave or without having sent to the Manager an explanation satisfactory to the Manager for his absence shall be considered to have left his employment without notice. An operative leaving his employment in this manner shall not be entitled to wages for the period of eight days between his absenting himself and the date on which he is deemed to have left his employment. An operative who without such satisfactory explanation absents from work but for a lesser period than eight days period mentioned in this rule shall suffer a deduction of wages due to him which shall not bear a greater proportion to the total wages due to him for the current wage period, etc."

17. All the six workmen were absent without leave for eight consecutive days or more. They did not send any explanation to the Manager for their absence *during* the period of their absence but offered explanations on or shortly after the day they came with the intention to join. The Manager did not accept their explanations as sufficient and ordered them to be "gate-passed.". The first contention of the Company is that the explanation has to be communicated to the Manager *within the period of eight days* absence or at least *during the period of absence*, if it is more than eight days, and so the explanations offered by them were not such explanations which that Standing Order contemplated. We cannot accept this contention on the words of the Standing Order as they stand.

18. The second contention of the company is that the Standing Order requires the *satisfaction of the Manager*, and so the Tribunal cannot at all look into the explanations offered, at least for the purpose of examining its merits, and substitute its own opinion for the opinion of the Manager.

19. The evident object of Standing Order No. 5 is to put a check on absentism. Prima facie therefore, it is for Management to consider whether the rule is to be strictly or not. In the cases before us there is no tion of victimisation or unfair labour pra violation of the principles of natural justice in these operatives exception in the case of one. T given opportunity to give explanations, they ga explanations and those explanations were consid the Manager. Therefore, the relevant questions in cases are whether there was want of bonafides on part of the Manager or his act was arbitrary judge accordingly to the standard of reasonable man. For these purposes the explanations offered by the different operatives are relevant, and the Tribunal was, and we on appeal would be, entitled to see what those explanation were but only for these limited purposes. If on co dering the explanations offered either by themselves or along with other facts that may appear, the conclusion be that there was want of bonafides on the part of the Manager, or his act was arbitrary, relief is to be granted. If on the other hand the conclusion be otherwise, there would be an end of the case of the operatives concerned. We, therefore, agree with the decision in Rashtriya Mills Mazdoor Sangh, Bombay *Vs.* Mayer Mills Ltd. (1951 I L.L.J. 283) so far it lays down that in cases falling under Standing Order No. 5, or similarly worded Standing Orders the Tribunal has no power to sit in appeal on the merits upon the Management's decision in not accepting the explanation offered by the operative concerned in a case where it holds that the Management had acted bonafide and there was no victimisation or unfair labour practice.

20. Of the six persons concerned in Appeal No. 94 who had been dealt with by the Management under Standing Order No. 5 (five), namely, Serial Nos. A-7, A-26, A-27, A-33 and B-34 pleaded illness as excuse for their absence. Four of them, namely, A-7, A-26, A-33, and B-34 admittedly produced medical certificates. The Company, however, denies having received any medical certificate from A-27 (Pitchaya). With regard to A-7 (Bhaktavatsalam) the Company did not apparently disbelieve his statement that he had some eye trouble, but rejected the medical certificate produced by him simply on the ground that it was from "a private medical practitioner". Dr. Nathan, however, who gave the certificate, was an honorary assistant in the Government Opthalmic Hospital, Madras, where the operative had gone for the treatment of his eye disease. These are the findings of the Tribunal which, in substance, amount to a finding that the conduct of the Manager was arbitrary, and, therefore, this case falls within the rule we have laid down, and, in our opinion, the Tribunal took a correct view in ordering reinstatement. With regard to the others, there are no findings of the Tribunal which would bring their cases within those rules. The Tribunal simply reviewed the evidence and held that the decision of the Manager to the effect that they were not ill, but made illness an excuse for absence was based on improper appreciat of evidence. Thus the Tribunal simply sat in appeal over the Manager's decision. The order for reinstatement of those four persons A-26, A-27, A-33 and B-34 must, therefore, be set aside.

21. The remaining operative B-57 (C. L. Muniswamy) pleaded that he could not attend as he was detained in police custody from the 14th June to the 30th June on the suspicion of having abducted a woman. On his release from police custody he went to the Manager to communicate the reason of his absence, but he was then and there handed over to the police. Thus the opportunity to submit an explanation was denied to him. So the principles of natural justice were violated. We must accordingly hold that his services also were not rightly terminated and the order reinstating him must be maintained.

22. Thirteen operatives concerned in this appeal were discharged under Standing Order No. 10. They are Serials Nos. A-18, A-21, A-23, A-30, A-32, B-1, B-6, B-7, B-12, B-16, B-33, B-41 and B-44. Standing Order No. 10 runs as follows :—

> "The employment of any operative may be terminated without assigning any reason by 15 days notice or by payment of wages for a like number of days in lieu of notice———".

23. Although the Standing Order empowers the Manager to terminate the services of operatives by 15 days' notice or in lieu thereof on payment of 15 days' wages without assigning any reason, a Tribunal would, as we have already said, be entitled to know the reason behind the termination of the service under this Standing Order in order to judge whether the act of the Manager was *bonafide* or was with an ulterior motive, or his conduct was arbitrary, or he had acted with unnecessary harshness or there was victimisation or unfair labourpractice. In this case, the Company disclosed the reasons both to the Unions and before the Tribunal. Its case was that the reason was irregular attendance on their part for which they had been given warnings and even thereafter their attendance was irregular and in support of its case the service records had been produced. The evidence establishes *bonafide* and the absence of all the other elements the presence of which only could have entitled the Tribunal to interfere with the power of the employer to discharge the operatives under the Standing Order. The Tribunal did not record any finding on the question of want of *bonafides* etc., on the part of the Manager and on the evidence no such finding could be arrived at. The Tribunal was, therefore, wrong in interfering with the act of the Manager In most of these cases, the Tribunal substituted its judgment in place of the Manager's and proceeded to order reinstatement on the view that leniency should have been shown to them without advertising to the fact as to whether the requirements of discipline or good Management would not be prejudiced by the award of lesser punishment. This is entirely a wrong approach. We accordingly set aside the order of the Tribunal directing their reinstatement.

24. The operatives concerned in this appeal who had been dismissed for misconduct and who have been ordered by the Tribunal to be reinstated are serial numbers A-8. A-9, A-17, A-11 and A-16. They were dismissed under different heads of misconduct as defined in Standing Order No. 12—A-8 for theft of a writing pad, A-9 for theft of 1½ yards of cloth, A-17 for stealing yarn, A-11 for riotous conduct and disorderly behaviour is a working shed of the factory during working hours and A-16 for disobedience of the reasonable orders of his superior. All these fall within the definition of miscoduct as given in Standing Order No. 12. The Management framed charges against them, and gave them opportunity to meet the charges and open enquiries were held by the Manager in their presence. Their statements and the statements of other employees were taken in their presence and in some cases, the enquiry was elaborate. The Manager was satisfied as a result of the enquiries he held that the charges had been established and dismissed them. He acted in a perfectly *bonafide* manner. As there is no finding that the other elements which we have already mentioned in the earlier part of our decision were present and which would call for interference with the action of the Manager in the matter of termination of service, the order directing their reinstatement must also be discharged.

25. We will now deal with the eight operatives concerned in Appeal No. 142 whom the Tribunal refused to reinstate. They are serial Nos. A-5, A-6, A-2, B-54, A-4, A-3. B-50 and B-51. The first two were dealt with under Standing Order No. 5 the rest were dismissed for misconduct, such as neglect of duty, insubordination, wilful disobedience of lawful orders, riotous conduct during working hours, inciting other operatives to go on strike etc. The finding is that in each of these cases, the Manager communicated the charges held proper enquiries in their presence and after being satisfied on the materials that appeared at the enquiries, discharged them. On the principles which we have formulated above the decision of the Management cannot be reviewed nor can there be interference with the punishment awaraded by the Management. We accordingly confirm the order passed by the Tribunal in respect of these operatives.

26. The next point relates to the question of holidays as provided for in Section 49B of the Factories Act of 1934 which was in force upto the 31st March, 1949, when it was replaced by the Factories Act of 1948, which came into force on the 1st April, 1949. The facts bearing on the point are as follows :—

On the 1st November, 1948, there was a solar eclipse. Some time before that date the Labour Union made a demand for half a day's holiday for the day-shift operatives only. There was some negotiations between the Management and the Union. It is not necessary to go into the details of those negotiations. Ultimately, the Management agreed to give half day's holdiay with pay to the day-shift workers only but not to the night shift workers and this decision was duly notified to the operatives by a notice affixed to the notice board before the work started on the 1st November. There is nothin to show that the Union disapproved of this arrangemen On the other hand there are indications that it submitte to it. Eight hundred and fifty nine night shift operative of the Cording and Spinning Department of the Carnati Mills, however, stopped work, some at 4 p.m., some a 4-30 p.m. and some at 5 p.m. Responsible offices the Union ultimately prevailed upon them to resum work. The operatives of one section resumed work 7-15 p.m., others at 8 p.m. and the rest at 9 p.m. exce a very few who resumed work at 10 p.m. There was thu suspension of work for about 2 to 4 hours. Th Tribunal came to a finding that this suspension of wor amounted to a strike. As the Company had been declare by the Government to be a public utility industry if was a strike, it would be an illegal one, because the prov sions of Sec. 2 of the Industrial Disputes Act had not bee followed. The Management on the 3rd November not fied that it would deduct the wages and dearness allow ance for the period during which the operatives did nc work and that it would treat the period of the allege strike as constituting an interruption in the continuit of service for the purpose of holidays that may be du under the Factories Act.

27. Section 49B(1) allows a worker who had complete a period of 12 months' continuous service in a factory, days' holiday, if an adult, and fourteen days, if a chil with pay at a certain rate, which he can avail of in th next period of 12 months and which he can als accumulate within certain limitations. This sub-sectio not only lays down a rule for computation of holida but also defines the conditions under which the right have holdiays accrue and the condition is that ther must be *continuous service* for an anterior period twelve months. The period of service anterior to break or interruption of service cannot be tacked on to period of service after the break so as to make up th period of 12 months requisite to earn holidays. On the points there is no dispute between the parties nor ca there be any. The service in this subsection mea *actual* service—attendance to duty—and continuous servic means attendance to duy without interruption or brea The explanation, however, provides that in certain ca service would be deemed to be *continuous* though in f it is not so, and those cases are (a) where absence fro work is due to sickness, accident or authorised leave ar the aggregate of all these items does not exceed 90 d (b) where the absence from duty is by reason of lockou or (c) on account of intermittent periods of involuntar unemployment not exceeding 30 days or (d) on account a stirke which is not an illegal strike. If, therefore, th strike be an illegal one, the strike period would be period of interruption of service and so the period service anterior to that period of interruption cannot tacked on to a period subsequent to that period so as make up the period of 12 months for earning the holida under sub-section (i). The Tribunal held that there w interruption of service by the operatives concerned n actually working during the hours mentioned abov Notwithstanding that finding it decided that the operativ concerned should be given half the number of holidays which they would have been entitled if there had n been the said break by reason of what he held to be illegal strike. In doing so it held that inasmuch as th Management had the right to condone a break in th continuity of service a Tribunal had the power to revi the discretion of the Management where it had exercis it harshly by not condoning the break. Both the Compar and the Union attack the award, the former contendir that the Tribunal has not that power and the latter th on the facts the stoppage of work for the few hours cou not be considered as interruption to continuity and th a tany rate the Tribunal had the power which purported to exercise. In support of the last mentione contention reference was made to Electric Mechanic Industries Ltd., *Vrs.* Industrial Tribunal No. 2 and othe (1950. 2 Mad. L J. p. 479). We do not think that in a ca under Section 49B of the said Factories Act or under th corresponding Section of the Factories Act, 1948, th Tribunal has power to interfere. It is not the case of t employer directly imposing a penalty or inflicting puni ment on the workmen. The case is as to whether t workers concerned had acquired the right to the sa number of holidays which they would have acquir under the Statute if there had not been a break. T case of Electric Mechanical Electric Co. Ltd., *V.* Industrial Tribunal No. 2, Madras (1950. 2 Mad. L.J. 479) was a case under the proviso to Section 9 of t Payment of wages Act and so related to punishment. T Madras High Court on a writ of certiorari held that Industrial Tribunal had jurisdiction to reduce the puni ment inflicted by the Management. The question befo us is different, namely, whether there was a break in t

continuity of service for the purpose of calculating holidays.

28. In our opinion, absence from work by an operative for a short period of time, that is not for a day but for a few hours in a working day, should not be necessarily regarded as an interruption in his service for the purposes of computing holidays under Section 49B of the Factories Act, 1934 or Section 79 of the Factories Act, 1948, unless the cessation of work amounted to an illegal strike. Thus it would be absurd to hold that non-permitted absence from work even for half an hour or less in the course of a working day would be regarded as interruption of service of a workman for the purpose of the said section. We are inclined to hold that the stoppage of work for the period for about 2 to 4 hours in the circumstances of the case is not to be regarded as a strike so as to amount to a break in the continuity of service of the workmen concerned. The appeal of the Union on this part of the award accordingly succeeds. Holiday at the full rate as provided for in Section 49B of the Factories Act will have to be calculated in respect of the operatives concerned on the footing as if there was no break in the continuity of their service by the stoppage of work on the 1st November, 1948.

29. Before dealing with the question of wages, dearness allowance and bonus it would be useful first of all to give a short summary of the several references made by the Madras Government concerning the Cotton Textile Industry of the Province and their workmen.

30. On the representation made by the Madras Provincial Trade Union and other labour unions, the Government of Madras by G. O. No. 2609, dated the 5th July, 1946, appointed Mr. Venkataramayya as a Court of Enquiry to go into all problems connected with the working conditions of labour in the Cotton Textile Industry of the Province In view of the likely delay in the completion of the enquiry the said Government by another order, being G.O. No. 4153 dated the 6th November, 1946, referred the question of granting interim relief to the workmen of all the Cotton Textile Mills of the Province for adjudication by the same gentleman under clause (c) of sub-rule 1 of rule 81(A) of the Defence of India Rules which was in force at that time. In the last mentioned reference the Adjudicator, Mr. Venkataramyya made his award on the 9th December, 1946. He held that no workmen should be paid less than Rs. 26 per month as basic wages. This Company was then paying at the rate of Rs 19/8/- per month to the lowest grade worker and his direction was that it should pay an additional sum of Rs 6/8/- per month by way of interim relief. The Madras Government by its order dated the 18th December, 1946 directed the award to be binding between the employers and employees of Cotton Textile Mills of the Province in the first instance for a period of one year from the date of the award. Thereafter Mr. Venkataramyya continued to be a Court of Enquiry under the earlier Government Order No. 2609, dated the 5th July, 1946. On the 17th February 1947, the Madras Labour Union acting on behalf of the workmen of the Company gave a strike notice to that concern formulating 21 demands which included among others claims to dearness allowance and bonus but not to basic wages By reason of urgency of the matter the Government by its Order No 1033, dated the 10th March, 1947 appointed Mr. Venkataramayya as a separate Court of Enquiry under Section 3(a) read with Section 4(1) of the Trades Disputes Act II of 1929 to enquire into these demands.

31. On the 1st April, 1947, the Industrial Disputes Act XX of 1947—came into force and on the 3rd April, 1947, employment in Textile Industry of the Province was declared to be a public utility service. By G.O. No. 2896 dated the 5th July, 1947, the notification of the 10th March, 1947, by which Mr Venkataramayya was appointed a Court of Enquiry for the Company and its workmen was superceded and Mr. Justice K P. Lakshmana Rao was appointed a Court of Enquiry in his place under Section 3(1) and (2) read with Section 10(1) of the Industrial Disputes Act to enquire into the said 21 demands which had been previously referred to Mr. Venkataramayya for enquiry. By later G.O. No. 4848, dated 12th October, 1947, the Court of Enquiry of which Mr. Justice Lakshmana Rao was the sole member was converted into an Industrial Tribunal with Mr. Justice Lakshmana Rao as the sole Member for the purpose of adjudicating upon the said 21 items of dispute. Likewise the Court of Enquiry of which Mr. Venkataramayya was appointed to be the sole Member on the 5th July, 1946 was converted by G.O. 2609, dated 15th April 1947, to an Industrial Tribunal under the Industrial Disputes Act with him as the sole adjudicator. On those two respective reference Mr. Venkataramayya made his award on the 19th June, 1947 and Mr. Justice Lakshmana Rao on the 19th November, 1947. The last mentioned award came into operation on the 21st November, 1947 and remained in operation for a period of one year.

32. Only two matters on which Mr. Justice Lakshmana Rao gave his award are material namely, dearness allowance and bonus. He fixed dearness allowance at the rate of 3 annas per point rise of the living cost index since 1936 and decided that for the year, bonus should be at the same rate as dividend on ordinary shares. Mr. Venkataramayya fixed basic wages of the lowest categ of operatives at Rs. 26 per month on the price level 1936. On this background the questions relating to ba wages of the operatives, dearness allowance and bor which are involved in the appeal before us have to considered

33. The controversy before us relating to wages fal under three broad heads, namely :—

(i) basic wages and grades of writer-maistries and supervisors.

(ii) basic wages of clerks, and

(iii) the basic wages of operatives of the lowest category.

34. Although the reference was wide enough to include the fixation of basic wages of all categories of operatives, by agreement, arrived at between the parties before the Tribunal the enquiry was confined to operatives of the lowest category. That agreement is embodied in paragraph 19 of the award under appeal. The wording of that paragraph is not happy but the meaning is clear, namely, the parties confined themselves to the fixation of basic wages for the lowest category of operatives in the Company leaving the questions of the classification of workers, and working out of differentials for the different grades and occupations to be settled later on either by negotiation or otherwise.

35. The demand of the Union is that separate grades should be provided for writer-maistries and supervisors of the Dye-House Department. Rs. 55—3—85 for the former and Rs. 60—3—90—4—130—5—140 for the latter class. Before 1942, both maistries and clerks (then called Writers) of that department were paid daily wages and both maistries and clerks were divided into two classes, Class I and Class II. The daily rate of wages were as follows :—

Class I Maistry—Rs. 1-8-3.

Class II Maistry—Rs. 1-8-0 to Rs. 2-12-0.

Class I Writer—Rs. 1-7-3.

Class II Writer—Rs. 1-8-0 to Rs. 2-8-0.

In 1942 there was wage revision in the Dye House Department as also in other departments. Those who were doing the work of Maistries in that department were classified under six classes, A to F, with monthly wages ranging from Rs. 65 for grade A to Rs. 25 for grade F. We are concerned with those who were put in Class F. In the wage revision of 1947 the Company desired to put the Class F workmen into the newly created Class IV—Maistries with basic wage of Rs. 36-8-0 (which meant an increase over what they were getting before with one per cent. annual increment). This was objected to by the Union and to meet its objection the Company designated them as Writer Maistries and gave them some additional privileges which are not material for this appeal. Thus although their designation was changed in 1947 they continued to perform the same duties as before, which were chiefly supervision of the operatives employed in that department and other subsidiary duties. We do not find any reason why they should have a special midway grade as has been urged before us by the Union, namely, superior to the grade of operatives and inferior to the grade of clerks.

36. The Supervisors of the Dye House department are now on fixed grades with basic wages ranging from Rs. 50 for the 5th grade to Rs. 115 for the 1st grade. Originally they used to get the same amount of wages as clerks but that fact is in our opinion not material for grading them as clerks. It is the nature of their duties which matter. Their principal duty is to supervise the work of the operatives in the matter of bleaching, finishing and sanforising. They must have some technical qualifications relating to preparation of the bleaching liquor by electrolysis process. They have to take readings at intervals of half an hour of the voltage, amperes, temperatures etc. and to record them. This is the only writing business, which is in essence a part of and incidental to the technical duties that they have to perform. The object of the attempt of the Union to put them on the clerical grade is to give them more annual increments than other operatives whose annual increments

are 1 per cent. of their wages. We do not see any reason why they should be put on a different and more advantageous position in the matter of annual increments to their wages than all other operatives. We accordingly hold that they cannot be classed as clerks and put into clerical grades.

37. With regard to clerks the position is as follows :—

The Company gives to a probationer Rs. 45 as basic wages for the probationary period of 12 months. Thereafter, he is put into the grades. There are five grades with the following basic wages, namely :—

Grade VI—Rs. 46/8/—1/8/—51.

Grade V—Rs. 53—3—65.

Grade IV—Rs. 69—4—85.

Grade III—Rs. 90—5—105.

Grade II—Rs. 112—7—147.

Grade I—Rs. 152—8—200.

Stenographers and typists are within these grades, the differences being in their wages as probationers and their initial wages on confirmations. These scales were introduced from the 1st January, 1949. The Union's contention before us are two in number. Firstly, that the same scales should be adopted as have been recommended by the Central Pay Commission and secondly that at any rate, the scales are inadequate and ought to be revised. We cannot accept any of these contentions.

38. The recommendations of the Central Pay Commission cannot in our opinion, be adopted. There is no evidence that clerks in this Company possess the same qualifications as Central Government clerks, or that their duties are equally responsible. In fact most of the clerks of the Company do not even have S.S.L.C. qualification or other equivalent qualifications. The scales adopted by the Company compare favourably with the scales fixed by the Madras Government for its clerical staff, and with the scales fixed by the General Madras Tribunal for clerks employed in other textile mills of the province. Besides the scales were revised in 1949 and decent increments given. There are no materials on the record which would call for a revision again within such a short period of time. We accordingly maintain this part of the award.

39. We will now take up the question of basic wages of the lowest category of operatives. This has been fixed by the Tribunal at Rs. 26 per month on the living cost index of the year 1936. Mr. Venkataramayya's award made on the 19th June 1947 also fixed the same at Rs. 26 on that price level.

40. Before dealing with the contentions of the Union who say that at that price level the basic wages of such operatives should be fixed at Rs. 35 per month, we propose to deal with the contention of the Company to the effect that Mr. Venkataramayya's award dated the 19th June, 1947, bound this Company also and so the amount should not be revised as the Union has not shown or established any change since Mr. Venkataramayya made his said award. It is, therefore, necessary to see if that award of Mr. Venkataramayya had binding effect on this Company.

41. We have already set out the different notifications by which the two Courts of Enquiry consisting respectively of Mr. Venkataramayya and Mr. Justice Lakshmana Rao had been set up and the dates on which these Courts of Enquiry were converted into Industrial Tribunals. In our opinion, the appointment of Mr. Venkataramayya on the 10th March, 1947, as a separate Court of Enquiry for this Company only and its workmen put the said Company outside the perview of the Court of Enquiry appointed on the 5th July, 1946 by G.O. 2609 of which Mr. Venkataramayya was also the sole Member. It was this last mentioned Court of Enquiry which was converted into a Tribunal later on of which Mr. Venkataramayya was made the sole Member and it is the award of this Tribunal that was made on the 19th June, 1947. Mr. Justice Lakshmana Rao took the place of Mr. Venkataramayya as the special Court of Enquiry appointed for this Company only. As at that time and also at the time when Mr. Justice Lakshmana Rao was converted to be the Sole Member of the Tribunal the award for interim relief on wages given by the award of the 6th November, 1946, was still in operation the question of wages could not be referred to Mr. Justice Lakshmana Rao. By reason of the appointment of a separate Court of Enquiry for this Company only (which was converted into a Tribunal later on) we hold that the Company ceased to be under the jurisdiction of the first Court of Enquiry appointed on the 5th July, 1946 and consequently the award which Mr. Venkataramayya made on the 19th June, 1947 did not bind this Company. The question of basic wages for the lowest category of operatives of this Company has, therefore, to be considered from a different angle.

42. The Fair Wages Committee in dealing with the question of wages came to the conclusion that the wage of an industrial worker must be such as would enable him to have not merely the means for bare subsistence of life but also for the preservation of his efficiency as a worker. For this purpose he must have means to provide for some measure of education, medical requirements and amenities. This is the minimum which he must have irrespective of the capacity of the industry or of his employer to pay. Thus the floor level of wages is to be determined keeping in view those considerations. The upper limit of wages must be set by what may be called the capacity of the industry to pay, not of a particular unit thereof, but of the industry-cum-region basis. Between these two limits fair wage will depend according to the Fair Wages Committee's reports upon the following factors :—

(i) productivity of labour,

(ii) prevailing rates of wages in the same or similar occupations in the same or neighbouring localities,

(iii) the level of national income and its distribution

(iv) the place of the industry in the economy of the country

43. In our opinion, the question of wages in the case before us, generally speaking, has to be approached in the manner thus indicated. The assessment on the basis of the first factor mentioned above viz. Productivity of labour is, however, difficult and uncertain. It is difficult because standards of production is difficult to fix and has not been fixed in India in respect of the Cotton Textile Industry or in this Company in all its departments. It is uncertain, for the productivity depends upon many factors, over many of which the worker does not exercise control, such as the type and state of the machinery installed, the quality of raw material supplied, the level of managerial and technical efficiency. All these factors are noticed in the Fair Wages Committee's report, which does not seem to have given appreciable importance to the productivity factor. With regard to the fourth factor it may be taken that the Cotton Textile Industry has an important place in the economy of India, but here also the difficulty is the want of necessary data for assessment purposes. Prevailing rate of wages in the same and similar occupation in the same or neighbouring localities is an important factor, for unless the same wage level of workers employed in similar occupations in the same locality or in the neighbourhood be maintained there would be flow of labour from one industry to another in the same locality or neighbourhood or from one unit of the same industry to another unit of the same resulting in unfair competition with all its undesirable consequences. It is a factor capable of a more precise definition than the other two in the matter of producing results. The same considerations—as makes the second factor to be a potent one—would apply to the other considerations which is to determine the upper limit of wages, namely the capacity to pay. So the capacity to pay must be assessed not on unit-wise basis but industry-cum-region basis, as is the recommendation of the Fair Wages Committee.

44. The factor of per capita national income has, in our opinion, a somewhat remote bearing on the question of total emoluments..... of an industrial worker. That figure is a hypothetical figure arrived at by taking an average. In our opinion, that factor does not mean that an industrial worker must have total emoluments equal to the per capita national income. The national income figure may perhaps be relevant for the purpose of seeing if his total emolument is violently out of proportion to the per capita national income. In Ex. W-98 which is a statement prepared by the Union it is stated that taking an average the share of an Industrial worker in the national income in the year 1949-50 should be Rs. 108-9-0 (basic wages and dearness allowances) and that the total emoluments basic wages and dearness allowances) of a worker in this Company works out to be Rs. 87-14-0 on the average. Assuming these figures to be correct, the amount is not violently out of proportion.

45. We will examine and consider other material facts appearing in this case. The first question is what should be the amount of minimum wages according to its definition given in the Fair Wages Committee's report.

46. Before 1937, the actual expenses on the diet of one consumption unit of an industrial worker's family in Madras was Rs. 3 a month or somewhat less. This is the estimate of Dr. Akroyd, Director, Nutrition Research

Laboratories, Conoor, at page 17 of his Health Bulletin No. 23 published in the year 1937. In that Bulletin, however, he considered the said diet to be unbalanced. He came to the conclusion that an industrial worker needs food equivalent to 2,600 calories and at page 16 of his Bulletin gave a standard menu which would give a balanced diet having 2,600 calories as food value, and assessed the cost thereof between Rs. 5 and Rs. 6 per consumption unit at the price level of 1936, which is also the basic year for our calculations. In 1937, the Madras Government appointed Mr. Adyanthaya to enquire into the family budgets of industrial workers in the city of Madras. Mr. Adyanthaya submitted his report on the 5th May, 1938. He came to the conclusion that an industrial worker required 2,800 calories and on that basis adjusted Dr. Akroyds menu of a balanced diet and prepared a menu (Diet No. 1) of a balanced diet. On the price level of 1936, he assessed the cost of that menu to be Rs. 5/9/- per unit and adding the cost of salt and condiment (7.33 per cent.), he found the costs to be Rs. 6 per consumption unit (page 33 of his report). At page 35 of his report, he made the following observations :—

> "But the real question of whether even if families can afford a diet as costly as diet No. 1 they can be exepected to go in for the right kind of diet if left to themselves. What is needed in these matters is intensive educative propaganda among the working classes".

"Thus the 'costly diet' proposed by him was to be the goal to which an industrial worker is to be led. One of the potent inducements would no doubt be to provide him with means to have such a diet but there remains the other factor recognised by Mr. Adyanthaya namely, that the goal could be reached not immediately but after intensive educative propaganda. On the question of calories Dr. Akroyd made special study of the subject and his figure of 2,600 calories was the result of scientific research made by him as Director of the Conoor Institute. This figure of 2,600 calories has been accepted in Bombay. Mr. Adyanthaya, however, proceeded upon an assumption followed by mathematical calculations (paragraph 34 of his report). We would, therefore, prefer to proceed on Dr. Akroyds figure of 2,600 calories for estimating the cost of a balanced and nutritious diet. The cost of that total balanced diet for one consumption unit would on the basis of Mr. Venkataramayya's price estimate accordingly be about Rs. 5/10/- and not Rs. 6 Dr. Akroyd estimated the costs of his menu for his balanced diet to be between Rs. 5 and Rs. 6 in Madras. We can take it to be Rs. 5/8/- which almost agrees with Mr. Adyanathaya's estimate if 2,600 calories be taken to be requirement of an industrial worker. The Union, however, contends that Dr. Akroyd revised his opinion when submitting a specially prepared note to assist the Textile Enquiry Committee, Bombay, of which Mr. Justice Divatia was the Chairman, where he is said to have stated that 25 per cent. more will have to be added for obtaining a balanced diet for a minimum wage earner. The Report of that Enquiry Committee which was published in 1940, however, shows that Dr. Akroyd added 25 per cent. as the costs of extra items to his standard menu, such as sugar etc., for the purpose of attaining the standard of "living wages" (Final Report of the Textile Labour Enquiry Committee 1940, Vol. II, pages 70 to 71). Therefore, for the purpose of fixing 'minimum wages' that 25 per cent. is not to be added. We are accordingly of opinion that on the price index of 1936 prevailing in the city of Madras, the price of food of an industrial worker on the minimum wage level would not have exceeded Rs. 5/8/- on the menu of a balanced and nutritious diet as proposed either by Dr. Akroyd or by Mr. Adyanthaya. The Union has produced a letter dated the 21st March, 1940 written by Messrs. Binny & Co. Managing Agents of the Company to the then President of the Madras Labour Union enclosing a copy of the estimate which the Management had made of the cost of living of a workman's family consisting of 4.66 consumption units. The price of commodities was taken at the living cost index then prevailing, which was 104, the index for the base year, 1936, being taken as 100. This letter with its annexures has been marked as Exhibit W-83. The annexure *goes* into great detail and shows that the costs of food which the Mill workers were actually taking amounted to Rs. 21/10/3 per family of 4.66 consumption units. Detailed items of food on the basis of which that was prepared show that diet was not an un-balanced one and the quantity was adequate. The costs of food for one consumption unit calculated on the price level of 1936 comes up to Rs. 4/9/-. Many items other than food items were also taken into consideration, such as clothing, fuel and lighting expenses, house rent and various other miscellaneous items concerning amenities, such as education of children, toilet and washing, soaps flowers, conveyance charges, costs of carrying meals, smokes, betel nuts, betel leaves. Leaving out the house rent which was estimated at Rs. 4 per month the total of these items came up to Rs. 13/10/6 which reduced to the price level of 1936 would amount to about Rs. 13/1/-. The Union accepts the items and concedes this part of the list to be fair and exhaustive and the estimated price also to be fair. It, however, contends that item of house rent should be taken as Rs. 5 even on the basis of 3 consumption units and cost of fuel should not be proportionately reduced for the standard family of three units. Costs of all those items for one consumption unit barring house rent would come up to about Rs. 2/14/6. Whether this is to be taken as the correct data to proceed upon is, however, a different question which we will consider hereafter. We, are, however, of opinion that a workman is entitled to be provided at the rate of Rs. 5/8/- for a diet for consumption unit, though he may be actually spending less. He must be provided with means to buy the food required for a balanced diet as recommended by Dr. Akroyd.

48. The Fair Wages Committee proceeded upon the basis that for determining the wage rate, a family of an industrial worker must be taken to consist of three consumption units. That Committee recognised the fact that a worker's family does, in fact in many cases, consist of more consumption units than three namely, more children and some dependents of the worker. In fact, the Committee collected statistics in respect of a workers' family and annexed a table showing the results in Appendix III of the report. It, however, took into consideration the fact that in an industrial worker's family there would be more than one wage earner and the wages of such extra wage-earner would be expected to meet the cost of living of consumption units in excess of three. Feeling the soundness of this reasoning Mr. Pillai appearing for the Union conceded that in matter of determining minimum wages the calculations should proceed on the basis that the workman will have to provide for the cost of living of three consumption units only. The other expenses shown in Ex. W-83 must accordingly be reduced by multiplying the total excluding the items of house rent and fuel by 3/4.66.

49. In the matter of house rent for the lowest grade worker the following are the material considerations, namely,

(1) the estimate must be made on the basis of the rate prevailing in the city of Madras in 1936;

(2) the room must be of such capacity as to house a small family consisting of the workman (1 unit), his wife (.8 unit) and two children (each .6 units),

(3) the nature of the house and its locality that the workman is likely to occupy and,

(4) the rent which the majority of workmen of the class were actually then paying.

If a workman has a larger family than four members and so require a much larger room or more rooms than one the extra rent for such larger accommodation must, in our opinion, be found from the wages of the extra wage-earner in accordance with the view expressed by the Fair Wages Committee at the bottom of paragraph 31 of its report.

50. It is admitted before us for practical purposes that the level of house rent in the city of Madras may be taken to be the same in the years 1936 and 1937. So it would not be wrong to proceed upon the figures given in Mr. Aryanathaya's report published in 1938. He collected details about the income and expenditure of 641 workers' families living in the city of Madras. At page 20 of his report he gave details in a tabular form. In families of 4.92 consumption units in the income group of Rs. 20 to Rs. 30 per month he gave the following figures for the expenses of an average family :—

(a) Food—Rs. 14/12/1 (including liquor, tobacco etc.).

(b) Housing—Rs. 3/1/-.

(c) Clothing—Rs. 1/3/5 (including extra clothing for females).

(d) Fuel and light—Rs. 2/-/8.

(e) Misc. Items—Rs. 5.

These figures are for an average family of 4.92 consumption units. The total of items Nos. (c) and (e) came upto Rs. 6/3/5 which will have to be considered separately and in comparison with the total of the corresponding items of Ex. W-83 which comes up to Rs. 10/4/9 for a family of 4.66 consumption units. For the purpose of comparison we would ignore the small difference .26 consumption

unit and proceed on the basis that Rs. 6/3/5 is for the same consumption unit of 4.66 which is the basis of calculation in Exhibit W-83 as this would be more favourable to the workman. We propose to deal with the question of house rent and expenditure on fuel and lights separately. We need not consider item (a) for we have already held that the amount representing the costs of a balanced and nutritious diet as given by Dr. Akroyd is to be preferred to that of an unbalanced diet which the workmen were actually taking and on the basis of which item No. (a), amounting to Rs. 14/12/1 was estimated by Mr. Adyanathaya.

51. In regard to items No. (c) and (e) Mr. Adyanathaya proceeded on actuals. The cost of clothing was put at that low figure because of the fact noted by him in paragraph 27, page 22 of his report which is that a Madras workman's family spends more on food, almost the same on miscellaneous items but less on clothing than a workman's family in Bombay. The comparative table of Madras and Bombay given at the top of that page shows that percentage of expenditure in a Madras family on items of fuel, light and house rent is less than that of a Bombay family. We prefer Mr. Adyanathaya's estimate of items (c) and (e) as he proceeded on the actuals after elaborate enquiry. The figures on the corresponding items, appearing in Ex. W-83, namely, of all items other than of diet, fuel, light and housing cost, come to about 9/14/6, on the basis of the price level of 1936. Ex. W-83 includes within the miscellaneous items an item of -/8/- for children's education another item of -/3/7 for flowers and two other items, namely, travelling expenses and cost of carrying food which totals As. -/13/3. It also includes fifth item of As. -/8/7 for smokes which Mr. Adyanathaya included in his item (a) food. If we assume in favour of the workmen that the aforesaid first four items of Ex. W-83 which totals roughly Rs. 1/9/- had not been taken into consideration by Mr. Adyanathaya his figures for items (c) and (e) have to be increased by that amount. It would come up to Rs. 7/12/5 (Rs. 6/3/5 plus Rs. 1/9/-). We would round up the amount to Rs. 8 which would represent the costs on those items of a family of 4.66 consumption units on the price level of 1936. Thus on these items the expenses of a three unit family would be a little less than Rs. 5/3/-. We would take it to be Rs. 5/3/-. The expenditure on fuel and light as mentioned in item (d) Rs. 2/-/8 in Mr. Adyanathaya's report cannot, in our opinion, be proportionately reduced. Where the family consists of lesser number of units, namely, 3 instead of 4.92 almost the same amount of fuel and oil would be required whether the family consisting of 4.92 units or 3 units.

52. We will now consider the question of house rent. In the table at page 20 of his report Mr. Adyanathaya takes an average from the family budget of families within the income group of Rs. 20 to Rs. 30 but at page 37 of his report he considers the details. These details are important. There he embodies the result of his examination of the family budget of 167 families falling within that income group. Out of the total number, 67 families were paying house rent below Rs. 3, but the rooms let out at rents below Rs. 3, were low and walled huts, almost dark, devoid of ventilation and the entrances thereto were too low. Thirty-eight families were paying rent between Rs. 3 and Rs. 4. The accommodation consisted of a better room, a small veranda and sometimes a small part of a quadrangle. Thirtysix families were paying between Rs. 4 and Rs. 5, twentytwo between Rs. 5 and Rs. 6 and only four between Rs. 6 and Rs. 8. In the earlier part of the report (page 11), he remarked the percentage of "joint households" in the Madras City was high and such a household consisted not only of the workman's natural family i.e. he himself, his wife and unmarried children, but also of a group of his other relatives. Probably for the accommodation of a house, joint household rents higher than Rs. 4 was being paid in those 62 families. In view of these figures and of the estimate made in Ex. W-83 or, we think we should take the house rent to be Rs. 4 per month in 1936 for a workman's family within the income group of Rs. 20 to Rs. 30, as the accommodation available at that rent was tolerably good.

53. The result of our findings is as follows :—

An industrial worker of the lowest category living in the city of Madras and preserving his efficiency must have the means to meet the following monthly expenses of a family consisting of three consumption units including himself, namely :—

Expenses on diet	16	8	0
House rent	4	0	0
Fuel & light	2	0	9
Clothing & other misc. exp.	5	3	0
Total ...	27	11	9

Say Rs. 28.

This is on the price index of the year 1936.

54. We have already noticed the Fair Wages Committee's recommendation that in determining basic wages prevailing rates of wages in the same or similar occupations in the same or neighbouring localities must be kept in view. The occupation may be in an industry of the same kind or not. Nature of the job and the neighbourhood are the material factors. There are some materials for enabling us to examine this aspect of the matter and those materials are furnished by Mr. Venkataramayya's award dated the 19th June, 1947 where he fixed the basic wages of the lowest category of workers employed in all the Textile Mills of the province of Madras except this Company at Rs. 26 per month on the price level of the year 1956. One of the Mills bound by the ward was the Kandan Textile Limited which is just on the outskirts of the city of Madras though it is a small unit. The awards and reports of Courts of Enquiry given in respect of the Cotton Textile Industry at Bombay and Ahmedabad are not helpful because there is no evidence that cost and conditions of living of a workman's family in those places were similar to those of the City of Madras.

55. Mr. Pillai, however, contended before us that for fixing the wages of the lowest category of workmen in this Company three other factors must be taken into considerations and those factors would entitle them to claim higher wages than what would be fixed as the minimum basic wages on the subsistence level. Those factors are :—

(1) its relation to per-capita national income,

(2) higher productivity of labour in the B. & C Mills and (3) the capacity of that Mill to pay higher wages.

56. We have already noticed the question of the relation of wages to per-capita national income and have expressed our views. We further pointed out the difficulty of assessing the contribution of labour in higher productivity. In this case, those difficulties have not been solved and cannot be solved on the materials before us. We will, however, briefly notice the materials placed before us by Mr. Pillai on the point with such comments as may be necessary.

57. His contention was as follows :—

The operatives of all the departments have maximum optimus workload and that has increased the percentage of productivity. He developed this argument by saying that testers have been appointed by the Company who calculate the work of the operatives by scientific methods namely, by time and motion methods and to lay standards of maximum optimus workload. This has resulted in a higher percentage of efficiency. For this purpose he had drawn our attention to four documents, M-237, M-251, M-130 and M-156. Testers, however have been appointed in one department only, namely, the Winding Department and Ex. M-237 is a report concerning that department. That report showed that some selected operatives produced results varying from 85 to 86.97 per cent., the efficiency of the machines being taken as 100 and the Management took those figures to be standard figures for calculating piece rates. But no such tests were carried on in other departments as for instance, the Ginning department, the Carding department, the Spinning department, the Weaving department and the Finishing department. Therefore we cannot come to the conclusion that the workload has reached the maximum optimus limit in the factory. Ex. M-130 contains the shed average of picks for December, 1946, January, 1947 and February 1947 and Ex. M-156 for August, September and October. It is said that the figures proved 88 to 89 per cent. efficiency. They show that work is done in an efficient manner but do not prove that the workload had reached either the maximum optimus limit or is more than what a operative puts up normally in other textile mills. Exhibit M-251 shows the quantity in lbs. of yarn spun and cloth woven in lbs. from 1939 to 1949. From 13140456 lbs. of yarn spun in 1939 the figure has risen to 26019723 lbs. in 1949 and the figures for cloth woven had risen from 13381613 lbs. in 1939 to 22636098 lbs. in 1949. These figures are inconclusive, for upto 1941, work was done in one shift only and night shifts were introduced thereafter on account

of war production and has been continued after the termination of the war. There is thus no definite evidence to show how far and to what extent labour has contributed to the greater productivity which as we have already pointed out, depends upon a variety of other factors.

58. The last point that remains to be considered in the matter of fixation of basic wages is the capacity to pay. There is no dispute and there cannot be any before us that the capacity to pay must be determined on an industry-cum-region basis. We have already noticed the sound reason behind this rule. If that rule be not adopted and the capacity to pay be judged on an unit-wise basis, there would be unfair competition and it would be placing in the hands of an unit able to pay higher wages, a weapon to drive out its competitor another unit of the same industry—from the field. A rule which would tend towards monopoly cannot be adopted in deciding industrial disputes. The substantial question, therefore, is whether the city of Madras can be regarded as a distinct region apart from the places in the province where other cotton Textile Mills are located.

59. From the award of Mr. Venkataramayya dated the 19th June, 1947, it appears there are 80 Cotton Textile Mills in the province of Madras. They are distributed as follows :—

Coimbatore—34.

Madura—12.

Madras City—1.

(B. & C. Mills Ltd).

Trinevelly—5.

Salam—4.

Malabar—6.

Ramnad—6.

Trichinopoly—2.

Chingleput—1.

North Arcot—1.

Ballary—2.

East Godavari—5.

and Chittoor—1.

out of them a small unit namely, the Kandan Textiles Mill is on the outskirts of the City of Madras. The question before us is whether the City of Madras is to be treated as a district and separate region apart from any of those other places. The report of the Textile Labour Enquiry Committee, 1940 of which Mr. Justice Divatia was the Chairman does not threw any light on the question as to how a region is to be determined. At page 3 of volume II of the Final Report, it appears that that Committee grouped the different mills into different 'centres' but that was made as the observations made at page 3, Vol. II of the Final Report shows, for the purpose of issuing questionnaires and receiving answers thereto.

60. The Dictionary meaning of this word "region" is a space on the surface of the earth conceived of as divided from the rest as regarded from a particular point of view. The point of view, therefore, from which the question has to be judged is that of 'industry'. Boundaries set up for administrative or other purposes accordingly would be irrelevant for the purpose. Essential elements of industry will, therefore, be the guiding factor, and those must be examined.

61. The carrying of an industry depends upon various factors, principal amongst them being labour, raw materials and marketing. Of these the conditions of labour and sources of supply of labour, that is places of recruitment and sources of supply of raw material are the important factors to be taken into consideration. The question of marketing does not assume any importance in the case of textile goods, for the market of every cotton textile mill is the same. On the other two points there are no materials before us which would enable us to decide the question of region either way. The fact, however, remains that this Company had been paying more wages in the past than the mills of the province and that it had been taken out of the proceedings before Mr. Venkataramayya. That was, however, done because there was strike in the Mills in 1947 and the urgency of the situation demanded a speedier settlement of the disputes with its workers. Taken by itself this Company may probably have the capacity to pay higher basic wages than Rs. 28 per month which we hereby fix for the lowest category of workman. But as on the materials we cannot come to the conclusion that the City of Madras is to be treated by itself a region, we are unable to take into consideration the Mills capacity in fixing [illegible]her basic wages.

62. We will consider the question of dearness allowance. Since 1946, the Company had been paying dearness allowance at the rate of As. -/3/- per point rise in the cost of living index which at the relevant period stood at 325 points. In the earlier part of 1947, the Madras Labour Union on behalf of the employees of the Company claimed dearness allowance at the rate of As. -/4/- per point rise, and gave a strike notice which included other demands also. Those disputes were referred to, as we have already said, for adjudication by Mr. Justice Lakshmana Rao, who held that no case for increase of the dearness allowance had been made out and so he maintained the then existing rate of As. -/3/- per point rise. He gave this award on the 19th November, 1947. That award was declared by the Provincial Government to be binding on the parties by a Notification issued on the 21st November, 1947 and remained in operation for a year from the date of that Notification. In the dispute which is the subject matter of the two references under appeal before us, the Union has again put forward the claim at four annas per point rise. On the basis of Rs. 28 as basic wages which we have fixed, As. -/3/- per point rise will neutralise about 77.8 per cent. of the rise in the cost of living of the lowest category of workers. If the rate be increased to four annas per point [illegible] neutralisation would be about 91 per cent. for that category of workers. The Tribunal has maintained the rate of As. -/3/-. The Union reiterates before us its claim to the As. -/4/- rate and rests its claim upon the observation of the Central Pay Commission, at page 46 of the report, the opinion of Dr. Radha Kamal Mukherjee expressed at page 204 in his book "Indian Working Class" and the awards made for the workmen employed in the Cotton Textile Industry of Bombay and Ahmedabad, which have allowed 90 per cent. and cent. per cent. neutralisation respectively. The Central Pay Commission makes the recommendation of cent. per cent. neutralisation in respect of employees who before the last war were living on the marginal level. It, at the same time, held that a sum of Rs. 55 per mensem (Rs. 30 as basic wages plus Rs. 25 as dearness allowance) should be the total amoluments of such classes of employees for their minimum requirement. At the time of the report the living cost index was 260. On this figure Rs. 25 as dearness allowance would work out at the rate of 2 As. 6 pies per point rise of the index. In spite of the first-mentioned observation nowhere dearness allowance has been given at such rates so as to neutralise completely the rise in the cost of living even in regard to the lowest grade employees. Dr. Radha Kamal Mukherjee speaks of employees who before the war were living *below the poverty* level. Having regard to the consideration said by us in fixing the basic wages at Rs. 28 for the lowest grade workers it cannot be said that with that wage level they would have been living *below* the poverty level before the last war, and besides the generally accepted view is that complete neutralisation should not be allowed by "payment of dearness alowance". Two reasons have been given in support of that view, namely, (1) the industrial worker should also be called upon to make sacrifice like all other citizens affected by the rise in prices due to abnormal conditions and (2) complete neutralisation would tend to add fillip to the inflamatory spiral. Great weight was placed on the last mentioned reason in the Report of the United Provinces Labour Enquiry Committee, 1946-48, where it was pointed out that complete neutralisation would lead to a vicious circle, namely, a rise in the tot[illegible] emoluments of an industrial worker which would for[illegible] a rise in prices which in turn would again force a rise in total emoluments of an industrial worker. We consider these principles to be sound and cannot countenance a claim to such dearness allowance as would neutralise either cent. per cent. or nearly cent. per cent. of the rise in the cost of living due to the abnormal rise in the price of commodities.

63. In Mr. Venkataramayya's award which bound all the textile concerns of the Madras Province except this Company two rates of dearness allowance were adopted. He observed that in the matter of dearness allowance Coimbatore district, Madura (with it Ambasamudram and Tuticorin) and Madras City should be placed on the same footing with dearness allowance at three annas per point rise in the cost of living index and Salam, Trichinopoly, Calicut and other places which he mentions in paragraph 32 of his award should be placed together and dearness allowance at the rate of 2½ annas per cent. rise should be given. In no industry throughout the Province of Madras has dearness allowance been awarded at a rate higher than three annas per point. The ward of Mr. Justice Lakshmana Rao which was in respect of this Company also maintained that rate.

64. We have already stated that on principle we cannot accede to a claim for dearness allowance which would result in almost complete neutralisation. We cannot, therefore, take as our pattern the Ahmedabad awards. Besides we are not in a position to say that the conditions of labour there and in the city of Madras are the same. The Bombay awards allow an amount of dearness allowance which *ex facie* neutralises 90 per cent. of the rise in the cost of living, but the Bombay workmen do not get dearness allowance on the days they absent themselves from work and absentism is pretty high in Bombay as has been pointed out by the Tribunal in the award under appeal and that the real and effective percentage in Bombay comes up to about 76. In this Company, the employees get dearness allowance for a number of days during which they do not attend to work, as for instance, when on sick leave or days of festival holidays etc. We have already pointed out that with the basic wages of Rs. 28 per month dearness allowance at the rate of three annas per point rise would neutralise about 77.8 per cent. of the rise in the cost of living of the lowest grade of wage earners. We cannot also shut our eyes to the fact that this Company give quite a number of amenities and privileges to its workers in the shape of medical relief, regular attendance bonus, and annual increment of 1 per cent. of their basic wages, and many other amenities.

65. Lastly we must consider the ability of this Company to pay the extra one anna per point rise as claimed. There are about 15,000 workmen employed in the concern. One anna increase in dearness allowance would place an extra financial burden of about Rs. 25 lacs a year on the existing cost of living index which is 325 points. The balance sheets of the Company for the year ending 31st December, 1948, show that after meeting all the necessary expenses and setting apart for bonus which the Company proposed to pay for the year to the workmen at the same rate as before, there remained a surplus 47.5 lacs odd. Out of this 15.0 lacs is set apart as additional reserve for meeting replacement costs, and the balance, Rs. 32.5 lacs was carried to the Appropriation Fund. Assuming for the present, as is the contention of the Union, that 15.0 lacs set apart for additional reserve was too high and that it ought to have been less by about 7.0 lacs or so, the amount in the appropriation fund would have stood at 40.0 lacs. After paying dividend on Preference shares and dividened on Ordinary and Bonus shares at the same effective rate as bonus the carry forward would be 25.8 lacs. The figures appearing in the balance sheets for the years ending 31st December, 1949 show a carry forward of only 6.64 lacs after paying reasonable dividend and bonus and for the year 1950 the carry forward is 15.69 lacs. The result would be, that if the claim for increase of dearness allowance be accepted, the Company would not be able to pay any dividend or bonus or very little and it is quite possible that there may be deficit in some years specially as there would be an additional financial burden by reason of the increase in basic wages which we have allowed. We cannot, therefore; accept the claim to increased dearness allowance. Dearness allowance will be paid at the existing rate, namely, three annas per point rise in the cost of living index figure.

66. The next point to be considered is the question of bonus for the year 1948. The principle on which a claim for bonus can be sustained and the broad consideration on which the quantum of bonus is to be determined have been laid down in paragraph 37 of the decision of the Full Bench of this Tribunal in the case of the Mill Owners' Association, Bombay *Vs.* The Rashtriya Mill Mazdoor Sangh Bombay (1950, 2 Lab. L.J. 1247 at page 1257). It was also pointed out in that case that no precise and general formula for determining the amount of bonus can be laid down which would apply to all industries or a particular type of industry. The amount may have to be determined on the rule which we adopted in that case, or on the basis of production as is being now adopted for the Sugar industry of Uttar Pradesh and Behar or by linking it to dividend on ordinary shares in either of two ways so far adopted. In this Company bonus is being paid since 1919. The general policy of the Company in regard to bonus was laid down in that year. It is reproduced in Ex. M-258. The material portion runs thus :—

> "The directors have for some time past had under consideration the question of giving the work people an interest in the profit of the Mill as is done in some English Companies. They have, therefore, the pleasure to announce that for the half year ending 31st December, 1919, they will pay to the Indian work people in their employ on that date a bonus on the aggregate wages earned by each employee during that half year at the same rate as ordinary dividend paid to the shareholders during the six months ended June 30th, 1919. Thus if an employee has at December 31st earned Rs. 20 per month (or Rs. 120 for six months), the ordinary dividend paid in 30th June 1919 being 5 per cent. the employee will receive at the rate of 5 per cent. on Rs. 120, say Rs. 6."

67. There are no materials on the record to show if bonus was paid from 1919 to 1925 on the basis of that formula. Ex. M-259 gives the figures, *inter alia*, of the rate of dividend paid on ordinary shares and the rate of bonus paid from the year 1926 to 1949. It shows that from 1926 to 1947 bonus was paid at the same rate as dividend on ordinary shares except for the three years, 1936, 1938 and 1939. In these three years the rate of dividend was respectively 7½ per cent., 9 per cent. and 9 per cent. but bonus was paid at the rate of 10 per cent., 10 per cent. & 11 per cent. respectively. Thus the departure made in these years was in favour of the workmen. In 1948, a part of the reserves (Rs. 89.0 lacs) was capitalised and free bonus shares were issued equal in number to the ordinary shares. In 1948 and 1949, the rates of dividend on ordinary and bonus shares were 7½ per cent. and 6¼ per cent. respectively but bonus paid on these years were 15 per cent. and 12½ per cent. i.e. at double the rates of dividend. Thus even in these two years the shareholders and the workmen were treated equally. This system of linking bonus to dividend paid on ordinary shares was upheld in awards made by Tribunals in disputes between this Company and their workmen, once in the year 1945 (Ex. M-260) and again by Mr. Justice Lakshamana Rao in December, 1947 in awarding bonus for the year 1946. Apart from that this formula has been adopted by Mr. Venkataramayya in the General Award relating to the Cotton Textile Industry of the province of Madras. It has worked well in this Company for these long years and, in our opinion, should not be disturbed on grounds which we consider to be problematical in respect of the claim for 1948. The principal objections to the formula of linking bonus to dividend are four in number and those in fact have been urged before us by Mr. Pillai. They are as under :—

(1) that the balance sheet may be unreal or over-loaded.

(2) that amount of bonus may be reduced by over-capitalisation.

(3) that much larger sums of money than necessary may be set apart for reserves, and

(4) shareholders may for many reasons vote for a lesser rate of dividend on ordinary shares than what the surplus would permit.

68. In the case before us the fourth ground is not material and it has not been developed by Mr. Pillai. Besides there is nothing to show that the dividend declared for the year on ordinary shares is far less than what the surplus could have provided, keeping in view considerations of prudence. Regarding the first ground the balance sheet for year 1948 has been accepted as correct by the Union. It only says that the amount shown on the expenditure side as Managing Agents' remuneration has been taken at an excessive figure, but we see no substance in that objection. Their remuneration has to be paid by the Company in terms of the Managing Agency contract and there is nothing to show that the amount paid to them was in excess of what they were entitled to under the terms of that contract. In fact the contract is not on the record as the Union took no steps to have it produced before the Tribunal.

69. In 1948, the capital of the Company was increased by the issue of bonus shares equal in number to the ordinary shares. But that did not affect the interest of the workmen in regard to the amount of bonus as for that year it was proposed to be paid at double the rates at which divindend was declared on ordinary shares. There is, therefore, no substance in the third objection.

70. We have already mentioned the fact that 15.0 lacs was set apart from the trading profits of the year 1948 as additional reserve for replacement. It is recognised that the ordinary depreciation fund would be inadequate for that purpose for the cost of machines and materials have gone up about three times the pre-war level. The Tariff Board for the purpose of filing the price of textile goods accepted the position that an additional reserve fund would be necessary to meet the extra cost of replacement and rehabilitation. It proceeded on the basis that that fund is to be built up gradually year after year so as to enable the necessary replacement in the space of 12 to 15 years. The purpose of the Tariff Board was, however, diffrent, namely, fixation of the controlled price of textiles. The actual necessity both as regards speed and amount of replacement in particular years would vary from factory to factory and would be governed by the requirement of the factory. So far as this Company is concerned, the balance sheet of the year ending on the 31st December, 1950 gives the necessary indication.

In that year large orders were placed for machinery etc. and a sum of Rs. 102.3 lacs odd had to be borrowed for that purpose. This appears from two entries from that balance sheet at the bottom of Sheet No. 2 right hand column and the first item on the left hand column of Sheet No. 3. We do not accordingly think that the sum of Rs. 15 lacs set apart in 1948 as additional reserve is an excessive amount. The reason given by the Tribunal for giving an additional 5 per cent. bonus, therefore, falls to the ground. We accordingly modify the award relating to bonus. Bonus for the year 1948 is to be paid by the Company, if not already paid, at the rate equal to double the rate of dividend paid on ordinary shares, that is at 15 per cent., in view of the issue of Bonus shares in 1948.

71. The last contention of the Union before us in respect of bonus is that the percentage should not be calculated on basic wages but on the total emoluments of the workman, that is on basic wages and dearness allowance. As far as we are aware in no awards has such a claim been accepted. If this basis be adopted the lowest category of workers in this Company who is to get Rs. 70/3/- on the living cost index of 325 (basic wages Rs. 28 plus Rs. 42/3/- dearness allowance would get about 2½ times more than what he would have got if the calculation proceeded on the basis of basic wages. To put it in a different way, his effective rate on that basis would be 2½ times the rate at which the shareholders would have got dividend on their ordinary shares. In our opinion the claim is an impossible claim. The award on the point of bonus is, therefore, modified to this extent, namely, the bonus for the year 1948 is to be calculated at 15 per cent. of the total basic wages paid to the workmen in the year 1948.

72. The Company did not press its appeal directed against the award relating to Standing Orders. The Union also did not press its appeals directed against the award relating to (1) house rent and (2) to jobbers and maistries. It has not also pressed its appeal directed against the finding of the Tribunal on the question of unfair labour practice. It pressed its appeals only on the following other matters, relating to :—

(1) the computation of holidays under Sec. 49B of the Factories Act, 1934;

(2) reinstatement of 8 workmen,

(3) gratuity for clerks and supervisors.

(4) pension for operatives,

(5) contribution to Provident Fund.

(6) seniority list and promotions and

(7) leave and holidays.

73. We have already dealt with the first and the second matters and have given our decision thereon. As admittedly no substantial point of law is involved on the other five matters, the first point for consideration is whether any of those items fall within any of the clauses of Section 7(1)(b) of the Industrial Disputes (Appellate Tribunal) Act. Item No. 6 (seniority list and promotion) does not obviously fall within any of those clauses and the matter of leave and holidays (item No. 7) do not, in our opinion, fall within clause (6)(i)—"wages".—We have already held in two cases (Macfarlane *Vs.* Its staff workers Union and Bengal Waterproof Works Ltd. *Vrs.* Its staff Workers Union) that to bring the case within that clauses the matter of wages must be *directly* involved. The question of Pension also does not fall within any of those clauses Besides, there is no merits in that claim as there is a Provident Fund. We accordingly hold that the appeal in respect of those three matters—leave and holidays, seniority list and promotion and pension is incompetent.

74. In regard to Provident Fund the question raised is whether the contribution of the employer's and of the employees should be raised from the existing rate of 7½ per cent. to 10 per cent. and whether the employers share of the contribution should be withheld in any circumstances, the contention of the Union being that it should not be withheld under any circumstances The contentions if upheld would require material changes in the existing Provident Fund Rules. The trustees of that Fund are not parties to the appeal and we hold that these questions cannot be gone into in their absence The last mentioned contention cannot also be considered for it does not come within clause (iv) of Section 7(1)(b).

75 The Union raised the dispute about gratuity for clerks only in addition to the benefit of the Provident Fund and the reference was made accordingly. Before the Tribunal it, however, preferred a claim in this respect on behalf of Supervisors also. The Tribunal negatived that claim and we think rightly on the ground that it was not one of the subject matters of the reference The scheme that was demanded by the Union was one for gratuity to be payable *on retirement only*. Its claim, therefore, does not come within clause (v) of Section 7(1)(b) for that clause contemplates gratuity payable on *discharge*. Be that as it may we cannot see any merits in the appeal on this point. The Tribunal settled a scheme for payment of gratuity to clerks in addition to the Provident Fund and the scheme is reasonable. In fact, this point was faintly argued before us.

76. We will now summarise our decision :—

(1) The orders for reinstatement made by the Tribunal in respect of all operatives except Serial Nos. A-7 Bhaktavatsalam) and Serial No. B-27 (C.L. Muniswamy) are set aside.

(2) The cessation of work on the 1st November 1948 is not to be considered as break in the continuity of service for the purpose of Section 49B of the Factories Act, 1934 and all operatives are to be credited with such holiday due under that section on the footing that their services were not interrupted by their staying out of work on that day.

(3) That basic wages of the lowest category of workmen is determined at Rs. 28 per month for the base year 1936.

(4) Dearness allowance will be determined at the rate of three annas per point rise in the living costs index above 100.

(5) Bonus for the year 1948 would be calculated on basic wages only and at the rate of 15 per cent. thereof. If monies so due if not paid yet must be paid within a month from the date of our judgment.

(6) In all other matters the award made by the Tribunal is upheld.

Each party to bear its own costs.

77. We ought not to conclude our judgement without expressing our sence of appreciation of the able assistance rendered to us by Mr. Pillai and Mr. Khaitan appearing for the respective parties to the appeal.

Chairman. *Member.* *Member.*

MINISTRY OF WORKS, PRODUCTION AND SUPPLY
Directorate General of Supplies and Disposals

NOTIFICATIONS

New Delhi, the 17th July 1951

No. A-1/1(67).—In continuation of this Directorate General notification No. A-1/1(67), dated the 5th June, 1951, Mr. H. K. Banerji, Assistant Director of Supplies (Grade I) in the Directorate General of Supplies and Disposals, New Delhi, was granted extension of earned leave for 20 days from the 1st June, 1951 to the 20th June, 1951.

No. A-1/1(68).—Mr. R. Dayal, Assistant Director of Supplies (Grade I) in the Directorate General of Supplies and Disposals, New Delhi, has been granted earned leave for 27 days from the 18th June, 1951, to the 14th July, 1951, with permission to prefix and suffix Sundays on the 17th June, 1951 and the 15th July, 1951, respectively to the leave.

The 18th July 1951

No. A-1/1(107).—Mr. S. R. Vasishta, Assistant Director of Supplies (Grade II) in the Directorate General of Supplies and Disposals, New Delhi, has been granted privilege leave for one month and three days from the 2nd July, 1951 to the 4th August, 1951, with permission to prefix and suffix Sundays on the 1st July, 1951 and the 5th August, 1951, respectively to the leave.

A. R. KAPUR,
Director (Administration & Co-ordination),
for *Director General,*
Supplies and Disposals.

MINISTRY OF COMMERCE AND INDUSTRY
Office of the Textile Commissioner

NOTIFICATIONS

Bombay, the 10th July 1951

No. 9(9)-Tex.1/49.—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order,

1948 and with the sanction of the Central Government, I hereby direct that the following further amendment shall be made in the Textile Commissioner's Notification No. 90-Tex.1/48(i), dated the 27th April 1948, namely :—

In columns 1 & 2 of the table appended to the said Notification, after entry No. 14 the following entries shall be added, namely :—

1	2
"15. Textile Commissioner, Vindhya Pradesh.	Vindhya Pradesh.

No. 9(9)-Tex.1/49(i).—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948 and with the sanction of the Central Government, I hereby direct that the following further amendment shall be made in the Textile Commissioner's Notification No. 80-Tex.148(iii), dated the 27th April, 1948, namely :—

In the said Notification, after entry No. xiv the following entries shall be added, namely :—

"(xv) Hyderabad—Deputy Collectors, Tahsildars, Chief Textile Inspectors, Textile Inspectors.

(xvi) Vindhya Pradesh—All District Supply Officers within their respective jurisdiction".

No. 9(9)-Tex.1/49(ii).—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948, and with the sanction of the Central Government, I hereby direct that the following further amendment shall be made in the Textile Commissioner's Notification No. 80-Tex.1/48(v), dated the 27th April, 1948, namely :—

In columns 1 & 2 of the table appended to the said Notification,

I. In entry No. 14 sub-entry (ii) shall be renumbered as (iii) and the following shall be inserted as sub-entry (ii), namely :—

1	2
"(ii) Assistant Textile Commissioners, Hyderabad Hyderabad.	Hyderabad

II. After entry No. 18 the following entry shall be added, namely :—

"19. (i) Textile Commissioner, Vindhya Pradesh.	Vindhya Pradesh.
(ii) Assistant Textile Commissioner, Vindhya Pradesh.	
(iii) All Deputy Commissioners	Respective Jurisdiction within the State".

No. 9(9)-Tex.1/49(iii).—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948, and with the sanction of the Central Government, I hereby direct that the following further amendment shall be made in the Textile Commissioner's Notification No. 80-Tex.-1/48(vi), dated the 27th April, 1948, namely :—

In columns 1 and 2 of the table appended to the said notification,—

(i) entry No. 13 shall be deleted ;

(ii) entry Numbers 14 to 19 shall be renumbered as 13 to 18 respectively ;

(iii) in entry number No. 17 renumbered as 16, the following shall be added, namely :—

"(iv) All Regional Controllers of Civil Supplies and Textiles, All Subas and All Tahsildars, Madhya Bharat—Respective Jurisdiction within the State."

(iv) after entry No. 19 renumbered as 18, the following shall be added, namely :—

"19. Textile Commissioner, Vindhya Pradesh—Vindhya Pradesh."

No. 9(9)-Tex.1/49(iv).—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948, and with the sanction of the Central Government, I hereby authorise the Textile Commissioner, Vindhya Pradesh, to discharge on my behalf the function of issuing directions to any dealer under sub-clause (4) of clause 24 of that Order.

The 16th July 1951

No. 9(9)-Tex.1/49.—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948, with the sanction of the Central Government and in supersession of the Textile Commissioner's notification No. 80-Tex.1/48(i), dated the 26th October 1948, I hereby authorise each of the following officers in the office of the Textile Commissioner, Bombay, to discharge on my behalf the functions of the Textile Commissioner under sub-clauses (1) and (3) of clause 30 of the said Order in respect of any producer to whom the said sub-clause (1) applies.

1. Shri A. S. E. Iyer, Director.
2. Shri P. S. Naidu, Director.
3. Shri Y. S. Mirza, Director.
4. Shri A. D. Balasundara Mudaliar, Director.
5. Shri M. S. Ramnath, Deputy Director.
6. Shri M. R. Row, Deputy Director.
7. Shri E. H. Nagarwalla, Deputy Director.
8. Shri N. R. Venugopal, Deputy Director.
9. Shri S. P. Kaura, Deputy Director.

No. 9(9)-Tex.1/49(i).—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948, and with the sanction of the Central Government, I hereby authorise Shri D. Hejmadi, Under Secretary to the Govt. of India in the Office of the Textile Commissioner, Bombay to exercise on my behalf the functions and powers of the Textile Commissioner under clauses 30 and 31 of the said Order.

No. 9(9)-Tex.1/49(ii).—In exercise of the powers conferred on me by clause 33 of the Cotton Textiles (Control) Order, 1948, I hereby exclude producers who have no spinning plant from the operation of sub-clause (1) of clause 30 of the Cotton Textiles (Control) Order, 1948.

No. 9(9)-Tex.1/49(iii).—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948, with the sanction of the Central Government and in supersession of the Textile Commissioner's notification No. 80-Tex.1/48(i), and No. 80-Tex.1/48(vi), both dated the 27th April 1948, I hereby authorise each 'Controller' as defined in clause 3(b) of the said Order to exercise within his own jurisdiction the functions of the Textile Commissioner of issuing directions under sub-clause (2) and further instructions under sub-clause (3) of clause 30 of the said Order to (a) any producer who has no spinning plant, (b) any processor and (c) any dealer.

No. 9(9)-Tex.1/49(iv).—In exercise of the powers conferred on me by clause 34 of the Cotton Textiles (Control) Order, 1948, with the sanction of the Central Government and in supersession of the Textile Commissioner's notification No. 80-Tex.1/48(i) and No. 80-Tex.1/48(vi) both dated the 27th April 1948, I hereby authorise each of the following officers in the Office of the Textile Commissioner to exercise on my behalf the functions of Textile Commissioner of issuing directions under sub-clause (2) and further instructions under sub-clause (3) of clause 30 of the said order to (a) any producer who has no spinning plant, (b) any processor and (c) any dealer.

1. Shri A. S. E. Iyer, Director.
2. Shri P. S. Naidu, Director.
3. Shri A. D. Balasundara Mudaliar, Director
4. Shri Y. S. Mirza, Director.
5. Shri N. M. Mukerjee, Director.
6. Shri M. S. Ramnath, Deputy Director.
7. Shri N. R. Venugopal, Deputy Director.
8. Shri M. C. Dutt, Deputy Director.
9. Shri A. N. Das, Deputy Director.
10. Shri S. C. Das Gupta, Deputy Director.
11. Shri S. K. Gupta, Deputy Director.
12. Shri D. M. Talegeri, Deputy Director.

No. TCS-IV/TP/2.—In pursuance of sub-clause (i) of Clause 3 of the Cotton Textiles (Transmission by Post) Prohibition Order, 1951, I hereby direct that the following further amendment shall be made in the General Permission dated the 19th May, 1951 contained in the Textile Commissioner's Notification No. S.R.O.756, dated the 19th May, 1951, namely :—

In paragraph 1 of the said General Permission, after entry (g), the following entry shall be added, namely :—

"(h) Indian Standards Institution, 19, University Road, Civil Lines, Delhi".

The 21st July, 1951

No. TCS-IV/CTM/2.—In pursuance of sub-clause (e) of Clause 2 of the Cotton Textiles (Control of Movement) Order, 1948, I hereby direct that the following further amendment shall be made in the Textile Commissioner'

Notification No. 15-Tex.1/49 (11), dated the 25th March, 1950, namely :—

In the table appended to the said Notification after entry No. 3. the following shall be inserted :-

"3A. Shri Y. S. Mirza,
Director,
Regional Directorate of Production, Bombay"
Ahmedabad.

T. SWAMINATHAN,
Textile Commissioner.

OFFICE OF THE SALT CONTROLLER

NOTIFICATIONS

New Delhi, the 12th July 1951

No. 3.—Mr. S. P. Kapoor, an officiating Deputy Superintendent of Salt. Nawa Circle, Rajputana Salt Sources Division has been appointed to officiate as Superintendent of Salt in that Circle with effect from the 20th May, 1951, until further orders.

No. 4.—Mr. K. Swaminathan, Deputy Superintendent of Salt has been appointed to officiate as Superintendent of Salt, Humma Circle (Orissa) with effect from 20th May, 1951. till further orders *vice* Mr. A. N. Rao placed under suspension

S. C. AGGARWAL,
Salt Controller.

SURVEY OF INDIA

NOTIFICATION

Mussoorie, the 12th July 1951

No. 2130/P.F.—In terms of the sanction conveyed in the Government of India, Ministry of Food and Agriculture letter No. F.16-22/50-S, dated the 9th May, 1951 the tenure of the 3rd temporary post of Assistant Stores Officer in the Stores Organisation of the Survey of India previously sanctioned up to 28th February, 1950 is extended for a further period of 19 days from the 1st March, 1950 and the continued employment thereto of Shri H. L. Tejwani for the same period.

2. In supersession of Director, Map Publication, Survey of India, Dehra Dun Notification No. 4/2-A-30, dated the 30th March, 1950 Shri H. L. Tejwani, late Assistant Stores Officer, Survey of India is granted, under the Revised Leave Rules, earned leave for 26 days with effect from the 22nd February, 1950 preparatory to the termination of his services on abolition of his post with effect from the 20th March, 1950.

I. H. R. WILSON,
Colonel,
Offg. *Surveyor General of India.*

OFFICE OF THE DIRECTOR GENERAL OF ARCHAEOLOGY IN INDIA

NOTIFICATION

New Delhi, the 18th July 1951

No. 1B/9/51-9670.—In continuation of the "Commuted Leave" last granted to him, Mr. P. F. Lakhani A.M.I.E. (India), Archaeological Engineer, Department of Archaeology, New Delhi is granted earned leave for 30 days with effect from the 24th June 1951 on medical grounds.

MADHO SARUP VATS,
Director General.

GEOLOGICAL SURVEY OF INDIA

NOTIFICATIONS

Calcutta-13, the 16th July 1951

No. 9825.—Mr. A. K. Ghose, Chief Draftsman, is appointed to the temporary post of Artist in the Geological Survey of India in the scale of Rs. 275—25—500—EB—30—650 with effect from the forenoon of the 21st May 1951 until further orders.

M. S. KRISHNAN,
Director,
Geological Survey of India.

Calcutta-13, the 20th July 1951

No. 10108/2222(KR).—Director, Geological Survey of India, has been pleased to grant to Mr. K. Ranganathan, Asstt. Geologist, Geological Survey of India, earned leave for twenty seven (27) days with effect from the forenoon of the 9th July 1951 with the permission to prefix the 8th July 1951 and to affix the 5th August 1951 being Sundays.

He is likely to resume his duties at Calcutta whence he has proceeded on leave.

N. K. N. AIYENGAR,
Assistant Director,
Geological Survey of India.

MILITARY ACCOUNTS DEPARTMENT

NOTIFICATIONS

New Delhi, the 14th July 1951

No. 6707/12/AN.—Shri Kala Ram Sharma, a permanent Accountant in the office of the Controller of Military Accounts, Eastern Command, Meerut has been appointed, until further orders, to officiate as Deputy Assistant Controller in that office with effect from 26th June 1951 (F.N.).

No. 6712/23/AN.—The undermentioned officers in the office of the Field Controller of Military Accounts (O. & CH.), Poona, have been granted leave as shown against each :—

Shri P. H. Pethe, Deputy Assistant Controller of Military Accounts (Permanent)—Privilege leave from 1st July 1951 to 30th October 1951.

Shri Shiv Nath Vaid, Deputy Assistant Controller of Military Accounts (Temporary)—Privilege leave from 1st July 1951 to 31st August 1951.

Shri P. N. Subbaraya, Deputy Assistant Controller of Military Accounts (Officiating)—Privilege leave from 2nd July 1951 to 20th July 1951.

The 16th July 1951

No. 5521-AN.—Leave has been granted as noted below :—

Shri S. G. Dube, D.C.M.A., Western Command—Earned leave from 4th June 1951 to 23rd June 1951.

Shri Gurpal Singh, D.F.C.M.A. (O.Rs.)—Earned leave from 1st June 1951 to 30th June 1951.

Shri D. R. Jain, A.M.A.G.—Earned leave from 18th June 1951 to 6th July 1951.

Shri V. Rajaram, D.C.A.A.F.—Privilege leave from 11th June 1951 to 10th August 1951.

M. L. MEHRA,
for *Military Accountant General.*

DIRECTORATE GENERAL, ALL INDIA RADIO

NOTIFICATIONS

New Delhi, the 17th July 1951

No. 1(94)A/50.—Mr. R. Jaipal Rao, formerly officiating Monitoring Supervisor, Hyderabad Station, is reverted to his permanent post of Assistant Station Director, Aurangabad with effect from the 1st April 1950.

The 18th July 1951

No. 1(102)-AII/50.—Mr. V. Subrahmanyam, Officiating Sub-Editor, News Services Division, All India Radio, relinquished charge of his post on the 11th June 1951 (forenoon).

The 19th July 1951

No. 1(102)-AII/50.—Mr. F. C. Ahluwalia, Mr. Sthaneshwar Prasad, Mr. R. Narayan, Mr. Madan Mohan Sahai and Mr. Brijnandan Prasad Nigam are appointed to officiate as Assistant News Editors, News Services Division, All India Radio, with effect from the 11th June, 11th June, 21st June, 2nd July and 2nd July 1951, respectively.

S. BANERJEE,
Deputy Director of Administration,
for *Director General.*

PRESS INFORMATION BUREAU

NOTIFICATIONS

New Delhi-2, the 18th July 1951

No. F.56/96/49-Est.—Shri J. M. Saxena, a temporary Superintendent, has been appointed to officiate as Chief Superintendent in the Press Information Bureau with effect from July 9, 1951 and until further orders.

The 19th July 1951

No. F.18/168/48-Est.—Shri R. L. Lekhi, Photographer, Press Information Bureau, was granted leave on average pay as follows :

(1) for six days from March 26 to 31, 1951 with permission to affix holidays on March 25 and April 1, 1951 to the period of leave ; and

(2) for 11 days from May 16 to 26, 1951 with permission to suffix holiday on May 27, 1951 to the period of leave.

B. L. SHARMA,
Principal Information Officer.

MINISTRY OF HEALTH

Directorate General of Health Services

NOTIFICATIONS

New Delhi, the 18th July 1951

No. 5-4/51-P.H.III.—In continuation of 88 days earned leave granted to Dr. S. Chakravarty, M.B., D.P.H., Port Health Officer, Visakhapatnam in this Directorate notification No. 5-4-51-P.H.III, dated the 4th June, 1951, he is granted leave on half pay for 40 days combined with leave not due for 53 days.

R. D. VOHRA,
for *Director General, Health Services.*

New Delhi-1, the 21st July 1951

No. 52-12/51-SG.—Mr. K. P. B. Pisharoty, Assistant Factory Manager, Medical Store Depot, Madras, was granted earned leave for 30 days with effect from the 23rd May, 1951 to the 21st June, 1951, both days inclusive.

A. S. SEN,
for *Director-General, H. S.*

Government Housing Factory

New Delhi, the 19th July 1951

No. 1357(10)/GHF.—Mr. C. S. Chandrasekhara, Town Planner & Liaison Officer, Government Housing Factory, resumed charge of his duties on the forenoon of the 17th July 1951 after availing of earned leave for 22 days sanctioned *vide* this Office Notification No. 1357(10), dated the 3rd July 1951. Leave for the remaining period *viz.*, 17th July 1951 to the 24th July 1951 is hereby cancelled.

ADDENDUM

New Delhi, the 19th July 1951

No. 1357(7)/GHF.—Please add the following as para. 2 to this office Notification No. 1357(7)/GHF, dated the 23rd May 1951 :—

"On return from leave he is expected to be reposted to the post from which he proceeded on leave".

K. K. NASTA,
Secretary,
Govt. Housing Factory Committee.

CENTRAL TRACTOR ORGANISATION

NOTIFICATIONS

New Delhi, the 14th July 1951

No. F.3-37/51-E.I.—Shree D. S. Rao, temporary Assistant Agricultural Engineer, Central Tractor Organisation, is hereby granted 21 days earned leave combined with 5 days leave on half pay with effect from the 11th June, 1951, with permission to prefix Sunday the 10th June, 1951, and suffix the 7th July, 1951, (Holiday), and Sunday the 8th July, 1951, to his leave.

The 17th July 1951

No. F.3-7/51(i)-E.I.—Shree K. R. Kuppuswamy, temporary Cost Accounts Officer, is hereby granted 30 days earned leave with effect from the 14th June, 1951.

No. F.3-34/51-E.I.—Shree M. P. Makhijani, temporary Labour Welfare Officer, is hereby granted 30 days' earned leave with effect from the 25th June, 1951, with permission to prefix the 24th June, 1951 (being Sunday) to his leave.

C. V. NARASIMHAN,
Chairman.

INDIAN AGRICULTURAL RESEARCH INSTITUTE

NOTIFICATIONS

New Delhi, the 16th July 1951

No. F.7/15195.—In supersession of this office Notification No. F. 7/8927, dated the 27th April, 1951, Dr. R. D. Asana, Plant Physiologist is granted earned leave for 32 days with effect from 4th June, 1951, with permission to prefix Sunday the 3rd June, 1951 to the leave.

The 20th July 1951

No. F. 7/15381.—Mr. C. K. Samuel is confirmed in the Class II post of Assistant Systematic Entomologist with effect from the 9th June, 1951.

B. P. PAL,
Director.

DIRECTORATE OF PLANT PROTECTION QUARANTINE & STORAGE

NOTIFICATION

New Delhi, the 16th July 1951

No. F.28(7)/50-G.—In supersession of this Office Notification of even number dated the 17th March, 1951, Dr. J. C. Saha, Plant Pathologist (Class II) in this Directorate, is hereby granted leave as under :—

13-2-1951 to 11-3-1951 (27 days)—Earned leave.

12-3-1951 to 31-3-1951 (20 days)—Half pay leave.

1-4-1951 to 12-8-1951 (134 days)—Extraordinary leave.

2. On the expiry of his leave Dr. Saha is likely to rejoin his duties as Plant Pathologist Class II at New Delhi.

B. B. MUNDKUR,
for *Plant Protection Adviser.*

INDIAN DAIRY DEPARTMENT

Indian Dairy Research Institute

NOTIFICATIONS

Bangalore-1, the 19th July 1951

No. E/241/3457.—Shri V. G. Kothandapani, Officiating Dairy Engineer (class II), Indian Dairy Research Institute, Bangalore, who was granted leave on average pay for three months with effect from the forenoon of 1st June 1951, has been recalled to duty. He assumed charge of the post, with effect from the forenoon of 16th July 1951.

No. E/150/3461.—Shri Kerala Verma, M.Sc., I.D.D., has been appointed to the temporary post of Assistant Bacteriologist (class II) in the Indian Council of Agricultural Research "Combined Bacteriological Scheme for studies on Heat Resistant Flora in Indian Milk etc.," at the Indian Dairy Research Institute, Bangalore, with effect from the forenoon of 9th July 1951.

K. C. SEN,
Director of Dairy Research.

DIRECTORATE-GENERAL, POSTS AND TELEGRAPHS

NOTIFICATION

The 20th July 1951

No. SPA. 74-3/51.—Shri S. P. Bhattacharyya, Superintendent of R.M.S., 'A' Division, Allahabad, has been granted a further extension of leave, on half average pay, for 3 months, with effect from the 1st June, 1951.

H. L. JERATH,
Director-General,
Posts & Telegraphs.

OFFICE OF THE DIRECTOR GENERAL OF CIVIL AVIATION

NOTIFICATIONS

New Delhi, the 17th July 1951

No. EA11-11/50.—The undermentioned Assistant Aerodrome Officers on probation in the Civil Aviation Department are confirmed in their appointments with effect from the dates noted against each :—

Serial No.	Name	Date of confirmation
1	Shri S. K. Bose	28 2-1951
2	Shri M.M. Joglekar	6-3-1951
3	Shri P. V. Subramaniam	28-3-1951
4	Shri C. G. Vishwanath	9-4-1951
5	Shri H. K. Sachdev . ..	16-4-1951
6	Shri F. N. Patel	25-4-1951
7	Shri L. C. Kempt	6-5-1951
8	Shri V. S. Marathe	4-4-1951

The 19th July 1951

No. E(C)11-3/51.—Mr. A. K. Mitra, Communication Officer, Aeronautical Communication Station, Dum Dum, relinquished charge of his office on the forenoon of the 3rd July, 1951, on transfer to the Office of the Controller of Communication, Calcutta Region, Calcutta, where he assumed charge on the forenoon of the same date.

The 20th July 1951

No. EH.15-10/51.—Shri S. G. Deshpande, Officiating Assistant Director of Examination and Licensing, Civil Aviation Directorate was granted earned leave for 13 days with effect from the 18th June, 1951, with permission to prefix and affix Sundays the 17th June and 1st July, 1951, respectively, to his leave.

T. P. BHALLA,
Director General of Civil Aviation.

FOREST RESEARCH INSTITUTE & COLLEGES

NOTIFICATION

Dehra Dun, the 17th July 1951

No. 8393/51-Ests-17(21).—Shri G. S. Dhillon, Instructor, Indian Forest Ranger College, Dehra Dun, was granted earned leave for 15 days with effect from May 19, 1951.

On return from leave Shri G. S. Dhillon was reposted to work as Instructor, Indian Forest Ranger College, Dehra Dun, with effect from June 3, 1951.

C. R. RANGANATHAN,
President,
Forest Research Institute & Colleges.

COLLECTOR OF CENTRAL EXCISE

NOTIFICATIONS

Bombay, the 16th March 1951

No. II/5-255/51.—Mr. H. M. Mogal is permitted to proceed on leave preparatory to reitrement, from the date of relief to the date of retirement *viz.* 11th July 1951, the nature of which will be decided later.

The 7th June 1951

No. II/5-255/51.—The leave preparatory to retirement granted in this office order No. II/5-255/51, dated 16th March 1951 to Mr. H. M. Mogal, Supdt., C. E., Broach is treated as three months and nineteen days leave on average pay from 23rd March 1951 to 11th July 1951 under F.Rs. 80 and 81 (b) (ii).

A. S. KYTE,
Collector of Central Excise, Bombay.

Hyderabad, the 18th July 1951

No. 8.—Shri P. N. Kalyanpur, Officiating Superintendent of Central Excise, Gulberga Circle was granted leave on average pay for 13 days from 4th June, 1951 to 16th June, 1951 with permission to prefix and suffix to his leave, the holidays on 3rd June, 1951 and 17th June, 1951 respectively.

On return from leave Shri P. N. Kalyanpur rejoined Gulberga Circle as Officiating Superintendent of Central Excise, on the forenoon of 18th June, 1951.

The 21st July 1951

No. 9.—Shri K. Venkateswara Rao, Superintendent of Central Excise was posted to the Warangal Circle with effect from the 15th July 1951, consequent on the closure of Central Excise Training School, Hyderabad-Dn.

C. B. PHILLIPS,
Collector of Central Excise,
Hyderabad & Mysore,
Hyderabad (Dn.).

CENTRAL PUBLIC WORKS DEPARTMENT

NOTIFICATIONS

New Delhi, the 18th July 1951

No. 04202EI.—Shri V. Vankataraman, P.A. to the Superintending Engineer, Madras, Central Circle, Madras, was granted earned leave for 20 days with effect from the 10th May F.N. to the 29th May 1951 A.N.

The 19th July 1951

No. 7389/EII.—Mr. C. B. Prasad, Labour Officer, attached to the Calcutta Central Circle No. II, C.P.W.D., Calcutta, is granted earned leave for 52 days with effect from 14th April 1951 to 6th June 1951, with permission to prefix closed holidays for 14th and 15th April 1951, under Revised Leave Rules, 1933.

No. Est. I/332.—Mr. J. S. Malkani, Officiating Executive Engineer, Central P.W.D., was granted leave as under :—

From 1-10-1949 to 29-10-1949—Earned leave for 29 days.

From 18-11-1949 to 4-12-1949—Earned leave for 3 days combined with leave on half average pay for 14 days.

2. The orders issued in this Office Notification No. Est.I/332, dated the 24th January 1950 (copies endorsed with No. Est.I/332, dated the 31st May 1951) are cancelled.

The 20th July 1951

No. 02087-EIV.—Shri H. L. Dutt, Officiating Assistant Engineer, (Electrical), is granted extraordinary leave without pay and allowances for 30 days with effect from the 1st August 1951 in continuation of 31 days extraordinary leave without pay and allowances, granted *vide* this office notification No. 02087-EIV, dated 30th June 1951.

B. S. PURI,
Chief Engineer.

OVERSEAS COMMUNICATIONS SERVICE

NOTIFICATION

Bombay, the 19th July 1951

No. GG. 6/8.—The following permanent Assistant Engineers have been granted earned leave as indicated against each :—

S. No.	Name	Station	Period From	Period To	No. of days	Remarks
1	Mr. B. S. Dutt	New Delhi	6-7-51	20-7-51	15	In continuation of earned leave granted to him in Notification No. GS/BSD dated 18-5-51.
2	Mr. K. R. Rao	Dhond .	11-6-51	23-6-51	13	Permitted to suffix Sunday the 24th June 1951 to the leave.

S. R. KANTEBET,
General Manager.

CENTRAL WATER AND POWER COMMISSION

NOTIFICATIONS

New Delhi, the 16th July 1951

No. 350/116/51-Adm.—Consequent on his transfer to the Sabarmati Project Division, Shri C. R. Chopra made over charge of the office of Assistant Engineer, Madhya Pradesh Project Circle at Khandwa with effect from 29th June, 1951 (afternoon) and took over charge of the office of Assistant Engineer, Sabarmati Project with headquarters at Ahmedabad with effect from 2nd July, 1951 (forenoon).

No. 808/50-Adm.—The office of the Assistant Engineer, Coorg Project Sub-Division was closed at Mercara on the 14th June 1951 (afternoon) and reopened at New Delhi with effect from 29th June, 1951 (Forenoon).

The 17th July 1951

No. 186/103/51-Adm.—Shri B. S. Nagaraj, Extra Assistant Director, Central Water and Power Commission, was granted 34 days' earned leave, with effect from the 14th May, 1951, with permission to prefix Sunday the 13th May, 1951 and suffix Sunday the 17th June, 1951 to the leave.

No. 186/117/51-Adm.—Shri Dilbagh Roy Bahl, temporary Extra Assistant Director, Central Water and Power Commission, relinquished charge of his post with effect from the 13th July, 1951 (afternoon).

The 18th July 1951

No. 350/77/51-Adm.—Shri Narendra Sen relinquished charge of the office of Assistant Engineer, Hirakud Dam Project, with effect from the forenoon of 2nd July 1951.

No. 350/143/51-Adm.—Shri C. T. Shevde is appointed as a temporary Assistant Engineer in the Hirakud Dam Project with effect from the forenoon of 23rd June 1951.

No. 604/3/51-Adm.—Shri P. S. Rao, Assistant Executive Engineer, Central Designs Organisations was granted 45 days earned leave from 14-5-51 to 27-6-51 both days inclusive with permission to prefix Sunday, the 13th May 1951.

The 19th July 1951

No. 350/22/51-Adm.—Shri H. K. Mohanty, Assistant Executive Engineer, Hirakud Dam Project was granted earned leave for 15 days with effect from 29th June 1951 to 13th July 1951 (both days inclusive).

The 21st July 1951

No. 186/103/51-Adm.—Shri B. S. Nagaraj, temporary Extra Assistant Director, Central Water and Power Commission, relinquished charge of his post with effect from the 16th July, 1951 (Fore-noon).

A. P. MATHRANI,
Secretary,
for *Chairman,*
Central Water and Power Commission.

OFFICE OF THE DEVELOPMENT COMMISSIONER, KANDLA

NOTIFICATION

Sardarganj (Kutch), the 19th May 1951

No. KP. 193/49.—Shri P. K. Dave, Port Engineer, Kandla Development Organisation, is granted earned leave for 60 days from the 19th May to 17th July 1951 (both days inclusive).

By order,
S. K. VENKATACHALAM,
Secretary to the Development Commissioner,
Kandla.

EAST INDIAN RAILWAY

NOTIFICATIONS

Calcutta, the 17th June 1951

No. AC/190/Eng-1.—The following officers officiating in the Lower Gazetted Service of the Civil Engineering Department of this railway are confirmed in that service with effect from the date noted against each—

Name.	*Date.*
1. Mr. S. K. Ghosh	2-2-1950
2. Mr. S. N. Roy	16-4-1950

The 18th July 1951

No. G/Staff/57.—Mr. Bhanu Prokash, a junior scale officer of the Transportation (Traffic) & Commercial Department was granted the following leave :—

Nature of leave	Period From	Period To-
1. On average pay for 1 month and 10 days on medical certificate.	8-9-48	17-10-48
2. On average pay for 21 days and commuted leave for 3 days on medical certificate.	4-6-49	27-6-49
3. On average pay for 39 days and on half average pay for 1 month and one day.	10-9-50	19-11-50

No. ME-130(N).—Mr. Mahesh Chander, Assistant Mechanical Engineer on probation was appointed to officiate as Works Manager, in the Sr. Scale for the period 30th May 1950 to 28th July 1950 both days inclusive.

The 19th July 1951

No. HE17/A/11.—Dr. A. B. Mitra, Offg. Divl. Medical Officer reverted as offg. Asstt. Medical Officer with effect from the afternoon of the 5th July 1951.

2. Dr. A. K. Ghosh, Offg. Asstt. Medical Officer, reverted as Asstt. Surgeon (Class III) with effect from the afternoon of the 11th July 1951.

K. B. MATHUR,
General Manager.

EASTERN PUNJAB RAILWAY

NOTIFICATION

Delhi, the 12th July 1951

No. 69.—Shri R. R. M. Tandon, Officiating Senior Personnel Officer, Eastern Punjab Railway, is granted leave on average pay for a period of 30 days with effect from 1st July, 1951.

DAYA CHAND,
Chief Administrative Officer.

G. I. P. RAILWAY

NOTIFICATION

Bombay, the 14th July 1951

No. 21620.R/199.—Mr. V. H. Dabke, Assistant Executive Engineer (Junior Scale), who was granted 42 days leave on average pay from 18th January 1951, curtailed his leave by 4 days and resumed duty on 25th February, 1951.

Mr. S. C. Modi, Shift Assistant, has been appointed to officiate as Shift Engineer (Class II) with effect from 1st May, 1951.

Mr. B. P. Chopra, Transportation Inspector, has been appointed to officiate as Assistant Traffic Manager (Class II) with effect from 15th May, 1951.

Mr. O. S. Murthy, Assistant Executive Engineer (Junior Scale), on return from leave, has been appointed to officiate as Bridge Engineer (Senior Scale) with effect from 2nd June, 1951.

Mr. P. D. Aguiar, Office Superintendent, Chief Engineer's Office, has been appointed to officiate as Assistant Personnel Officer (Class II) with effect from 1st June, 1951.

Mr. R. S. S. Thompson, Foreman (Traction Branch), has been appointed to officiate as Assistant Transportation Superintendent (Traction) (Class II), with effect from 8th June, 1951.

Mr. H. F. Pinto, Assistant Traffic Manager (Junior Scale), on return from leave has been appointed to officiate as Divisional Traffic Manager (Senior Scale), with effect from 8th June, 1951.

Mr. K. V. Pandit, Assistant Traffic Manager (Junior Scale), has been granted 45 days leave on average pay with effect from 8th June, 1951.

Mr. N. K. Warrior, Officiating Superintendent (Telegraphs), (Senior Scale), was granted 9 days leave on average pay with effect from 27th June, 1951.

H. P. HIRA,
General Manager.

ASSAM RAILWAY

NOTIFICATION

Pandu, the 13th July 1951

No. 177E/3(O).—Shri A. Sanyal, Assistant Electrical Engineer, Assam Railway, was granted leave on average pay for 22 days with effect from 1st February 1951.

B. ARORA,
Chief Administrative Officer.

B. B. & C. I. RAILWAY

NOTIFICATIONS

Bombay, the 16th July 1951

No. EA416-300.—Mr. C. M. Rees, Statistical Officer (Senior Scale), returned from leave and resumed duty on 2nd July 1951, 1st July 1951 being Sunday.

No. EA416-301.—Mr. E. G. R. Hixon, officiating Statistical Officer (Senior Scale), reverted to his substantive post of Compilation Officer (Class II), with effect from 1st July 1951.

No. EA416-302.—Mr. A. Aranjo, officiating Compilation Officer (Class II), reverted as Chief Clerk (Class III), with effect from 1st July 1951.

No. EA416-303.—Mr. E. S. Muthukrishna, District Mechanical Engineer (Senior Scale), proceeded on leave on average pay for 5 months out of India with effect from 31st May 1951.

No. EA416-304.—Mr. D. V. Ketkar, Assistant Mechanical Engineer (Junior Scale), has been appointed to officiate as District Mechanical Engineer (Senior Scale), with effect from 31st May 1951.

No. EA416-305.—Mr. K. R. R. Narayanan, Assistant Mechanical Engineer (Junior Scale), has been appointed to officiate as Production Engineer (Senior Scale), with effect from 31st May 1951.

No. EA416-306.—Mr. S. S. Bedi, Foreman (Class III), has been appointed to officiate as Assistant Mechanical Engineer (Class II), with effect from 7th May 1951.

K. P. MUSHRAN,
General Manager.

OUDH TIRHUT RAILWAY

NOTIFICATIONS

Gorakhpur, the 14th July 1951

Shri H. C. Bannerjee, Block Signal Inspector (Class III) has been promoted to officiate as Assistant Signal Engineer, Class II, with effect from 25th June, 1951 A.N.

The 20th July 1951

1. Shri Ramesh Chandra, Executive Engineer on transfer from Assam Railway took charge as D.P.O. (R) Gorakhpur with effect from 7th July 1951 F.N.

2. Shri L. C. Agarwal, Offg. D.P.O. has been reverted and posted as A.P.O. (R) against a temporary post with effect from 7th July 1951 F.N.

3. Shri A. N. Ahluwalia on return from leave has been posted as Asstt. Electrical Engineer, Samastipur with effect from 6th July 1951 F.N.

4. Shri C. S. Lall, Works Manager has been granted 12 days L.A.P. with effect from 5th April 1951 F.N.

G. PANDE,
General Manager.

SOUTHERN RAILWAY

NOTIFICATIONS

Madras, the 26th June 1951

No. EG.717.—Mr. S. Krishnamurthi, Officiating Assistant Transportation Superintendent (Traffic) class II service, reverted as subordinate with effect from the 29th April, 1951.

The 27th June 1951

No. 3957.—Mr. S. Krishna Rao, Officiating Assistant Electrical Engineer, class II service, reverted as subordinate with effect from the 23rd June, 1951.

Mr. J. Lobo, Officiating Assistant Electrical Engineer, Class II service, reverted as subordinate, with effect from the 23rd June, 1951.

The 4th July 1951

No. EG.9/A.—Mr. L. Sundaravaradachari, Officiating Assistant Commercial Manager, Class II service reverted as subordinate, with effect from the 2nd July, 1951.

The 5th July 1951

No. ES.1513/695.—Mr. R. Vaidyanathaswami, Assistant Engineer, Class II service, is granted leave on average pay for 45 days with effect from the 25th June, 1951.

K. R. RAMANUJAM,
General Manager.

UNION PUBLIC SERVICE COMMISSION

NOTICE

New Delhi, the 23rd July 1951

No. F.9/12/51-E.—An examination for admission to the Air Force Academy of the Indian Air Force for the course commencing in March, 1952, will be held by the Union Public Service Commission at Allahabad, Bombay, Calcutta, Delhi, Madras and Nagpur sometime in November 1951 in accordance with the Notification published by the Ministry of Defence in the Gazette of India, dated the 28th July, 1951.

2. Copies of application forms and full particulars are obtainable from the undermentioned authorities :—

(i) Secretary, Union Public Service Commission, Post Box No. 186, Parliament House, New Delhi.

(ii) P.O. 3 Air Headquarters, New Delhi.

(iii) Air Force Recruiting Adjutants :—

(a) No. 1 Air Force Academy, IAF Station, 17, Majumdar Lines, Church Road, Ambala Cantt.

(b) IAF Station, Safdar Jung, New Delhi.

(c) No. 1 Base Repair Depot, IAF Station, Chakeri, Kanpur.

(d) AFI Buildings, Hospital Lane, Dhobi Talao, Bombay-1.

(e) Head Quarters Training Command, I.A.F. Inf. Road, End. High Grounds, Bangalore Cantt.

(f) No. 2 Ground Training School, IAF Station, Tambaram, Madras.

(g) No. 1 Gokhale Road, Calcutta-20.

The fact that an application form has been supplied on whatever date will not be accepted as an excuse for the late submission of an application. Candidates who delay their requests for forms until a late date will do so at their own risk.

3. A candidate who desires to appear to the examination must submit his application on the prescribed form together with all the necessary documents in accordance with the Instructions to Candidates regarding the filling up and submission of applications so as to reach the Union Public Service Commission, Parliament House, Post Box No. 186, New Delhi, on or before the 8th September, 1951. Applications from candidates residing abroad should reach the Commission not later than the 15th September, 1951. No application received after the prescribed dates will be entertained.

Note.—Candidates, who will appear at the I.A.F. examination to be held in July 1951 are advised, if otherwise eligible, to submit their applications for appearing at this examination. If they are successful for the above course, their application will be cancelled by the Commission.

4. Candidates for admission to this examination must have been born not earlier than 1st April, 1931 and not later than the 30th September, 1934. Candidates possessing "A" flying licence and born not earlier than the 1st April, 1928 and not later than the 30th September, 1934 are also eligible to apply for this examination. THE AGE LIMITS CAN IN NO CASE BE RELAXED.

5. Candidates must pay the following fees :—

Rs. 37-8-0 (Rs. 9-6-0 in the case of candidates belonging to the Scheduled Castes or Scheduled Tribes) with the application.

Note 1.—Only a Treasury Receipt or crossed Indian postal orders payable to the Secretary, Union Public Service Commission, for the amount will be accepted. The Commission cannot accept the fee in cash or by cheque.

Note 2.—No claim for a refund of this fee will ordinarily be entertained nor can it be held in reserve for any other examination or selection. A refund of Rs. 30/- (Rs. 7-8-0 in case of candidates belonging to the Scheduled Castes or Scheduled Tribes) will however be made to candidates who are not admitted to the examination by the Commission. A refund of Rs. 30/- (Rs. 7-8-0 in the case of candidates belonging to the Scheduled Castes or Scheduled Tribes) will also be made to those candidates who secure 30 per cent. or more marks in the aggregate of the written examination.

No. 3.—The Commission may at their dircretion remit the prescribed fee where they are satisfied that the applicant is a ***bona fide*** displaced person from Pakistan and is not in a position to pay the fee.

Note 4.—Boys of the K.G.M. Colleges, whose applications are forwarded by the Principals with the recommendation that the applicants may be expected to secure at least 30 per cent of the aggregate marks of the written papers are not required to pay any fee.

6. Candidates accepted for the admission to the examination will be informed of the date, time and place of the examination in due course.

BISHAN DAS,
Secretary,
Union Public Sercive Commission.